



# TOWN OF NEWCOMB

## EMPLOYEE HANDBOOK

Adopted by Resolution of the Town Board on June 24, 2008

Updated by Resolution of the Town Board on February 13, 2018



Human Resource Solutions Made Simple

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# Town of Newcomb Employee Handbook

## Table of Contents

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### **100 INTRODUCTION**

|                   |  |       |
|-------------------|--|-------|
| <b><u>101</u></b> | Welcome Message_____                       | 100-1 |
| <b><u>102</u></b> | Our Heritage_____                          | 100-2 |
| <b><u>103</u></b> | Definitions_____                           | 100-3 |
| <b><u>104</u></b> | The Purpose of this Employee Handbook_____ | 100-4 |
| <b><u>105</u></b> | Changes or Modifications_____              | 100-5 |

### **200 EMPLOYEE CLASSIFICATIONS**

|                   |                                 |       |
|-------------------|---------------------------------|-------|
| <b><u>201</u></b> | Full-Time Employees_____        | 200-1 |
| <b><u>202</u></b> | Part-Time Employees_____        | 200-1 |
| <b><u>203</u></b> | Temporary Employees_____        | 200-1 |
| <b><u>204</u></b> | Seasonal Employees_____         | 200-1 |
| <b><u>205</u></b> | FLSA Non-Covered Employees_____ | 200-1 |
| <b><u>206</u></b> | FLSA Exempt Employees_____      | 200-1 |
| <b><u>207</u></b> | FLSA Non-Exempt Employees_____  | 200-1 |

### **300 THE CIVIL SERVICE SYSTEM**

|                   |   |       |
|-------------------|---|-------|
| <b><u>301</u></b> | The Unclassified and Classified Services_____ | 300-1 |
| <b><u>302</u></b> | Civil Service Appointments_____               | 300-1 |
| <b><u>303</u></b> | Examinations and Promotions_____              | 300-2 |
| <b><u>304</u></b> | Veterans Credits_____                         | 300-2 |

### **400 EMPLOYMENT MATTERS**

|                   |                                      |       |
|-------------------|--------------------------------------|-------|
| <b><u>401</u></b> | Oath of Office_____                  | 400-1 |
| <b><u>402</u></b> | Procedure for Filling Vacancies_____ | 400-1 |
| <b><u>403</u></b> | Employment of Relatives_____         | 400-2 |
| <b><u>404</u></b> | Probationary Period_____             | 400-3 |

|                   |  |               |
|-------------------|--|---------------|
| <b><u>405</u></b> | <b>New Employee Orientation</b>                        | <b>400-3</b>  |
| <b><u>406</u></b> | <b>Performance Review</b>                              | <b>400-4</b>  |
| <b><u>407</u></b> | <b>Corrective Action and Discipline</b>                | <b>400-4</b>  |
| <b><u>408</u></b> | <b>Civil Service Law Section 75</b>                    | <b>400-8</b>  |
| <b><u>409</u></b> | <b>Code of Ethics</b>                                  | <b>400-10</b> |
| <b><u>410</u></b> | <b>Personnel Records</b>                               | <b>400-12</b> |
| <b><u>411</u></b> | <b>Separation from Employment</b>                      | <b>400-13</b> |
| <b><u>500</u></b> | <b><u>OPERATIONAL POLICIES</u></b>                     |               |
| <b><u>501</u></b> | <b>Departmental Hours</b>                              | <b>500-1</b>  |
| <b><u>502</u></b> | <b>Meal Breaks and Breaks for Nursing Mothers</b>      | <b>500-2</b>  |
| <b><u>503</u></b> | <b>Emergency Situations</b>                            | <b>500-3</b>  |
| <b><u>504</u></b> | <b>Time Records</b>                                    | <b>500-4</b>  |
| <b><u>505</u></b> | <b>Bonding</b>   | <b>500-5</b>  |
| <b><u>506</u></b> | <b>Expense Reimbursement</b>                           | <b>500-5</b>  |
| <b><u>507</u></b> | <b>Vehicle Usage</b>                                   | <b>500-6</b>  |
| <b><u>508</u></b> | <b>Driver's License/ Insurance Requirements</b>        | <b>500-7</b>  |
| <b><u>509</u></b> | <b>Supplies, Tools and Equipment, and Fuel Usage</b>   | <b>500-8</b>  |
| <b><u>510</u></b> | <b>Telephone/ Cell Phone / Electronic Device Usage</b> | <b>500-9</b>  |
| <b><u>511</u></b> | <b>Town of Newcomb Cyber Policy</b>                    | <b>500-10</b> |
| <b>513</b>        | <b>Personal Appearance</b>                             | <b>500-16</b> |
| <b>514</b>        | <b>Solicitations/Distributions</b>                     | <b>500-17</b> |
| <b>515</b>        | <b>Disclosure of Information</b>                       | <b>500-17</b> |
| <b>516</b>        | <b>Visitors</b>  | <b>500-17</b> |
| <b>517</b>        | <b>Purchasing</b>                                      | <b>500-18</b> |
| <b>518</b>        | <b>Maintenance of Work Area</b>                        | <b>500-18</b> |
| <b>519</b>        | <b>Personal Property</b>                               | <b>500-19</b> |
| <b>520</b>        | <b>Town Property</b>                                   | <b>500-19</b> |
| <b>521</b>        | <b>Unauthorized Work</b>                               | <b>500-19</b> |

522 Outside Employment\_\_\_\_\_500-20

## **600 ABSENCE POLICIES**

601 Attendance\_\_\_\_\_600-1

602 Jury Duty Leave\_\_\_\_\_600-2

603 Military Leave and Military Leave of Absence\_\_\_\_\_600-3

604 Leave for Cancer Screening\_\_\_\_\_600-4

605 Leave for Blood or Bone Marrow Donations\_\_\_\_\_600-4

606 Bereavement Leave\_\_\_\_\_600-5

607 Volunteer Firefighters / Emergency Responders\_\_\_\_\_600-6

608 Family and Medical Leave Policy\_\_\_\_\_600-7

609 Unpaid Leave of Absence\_\_\_\_\_600-12

## **700 COMPENSATION**

701 Wage and Salary\_\_\_\_\_700-1

702 Overtime and Compensatory Time\_\_\_\_\_700-1

703 Pay Period and Check Distribution\_\_\_\_\_700-2

704 Payroll Deductions\_\_\_\_\_700-2

## **800 EMPLOYEE BENEFITS**

801 Holidays\_\_\_\_\_800-1

802 Vacation Leave\_\_\_\_\_800-2

803 Paid Time-Off\_\_\_\_\_800-3

804 Disclosure of Insurance Benefits\_\_\_\_\_800-5

805 Medical / Dental / Vision Insurance\_\_\_\_\_800-6

806 Medical Insurance for Retirees\_\_\_\_\_800-7

807 Continuation of Health Insurance Benefits (COBRA)\_\_\_\_\_800-8

808 Workers' Compensation Benefits\_\_\_\_\_800-9

809 Unemployment Benefits\_\_\_\_\_800-9

810 Social Security\_\_\_\_\_800-9

811 The New York State Employees' Retirement System\_\_\_\_\_800-10

## **900 COMPLIANCE POLICIES**

|     |   |       |
|-----|---|-------|
| 901 | Equal Employment Opportunity                              | 900-1 |
| 902 | The Americans with Disabilities Act                       | 900-2 |
| 903 | Harassment (Including Sexual Harassment) in the Workplace | 900-3 |
| 904 | Violence in the Workplace                                 | 900-6 |
| 905 | Drug-Free Workplace / Drug Free Awareness Program         | 900-7 |
| 906 | Controlled Substance and Alcohol Testing                  | 900-9 |
| 907 | Smoking   | 900-9 |

## **1000 SAFETY**

|      |                              |        |
|------|------------------------------|--------|
| 1001 | Workplace Safety             | 1000-1 |
| 1002 | Hazard Communication Program | 1000-2 |

## **1100 COMMUNICATION PROCEDURES**

|      |                                  |        |
|------|----------------------------------|--------|
| 1101 | Organizational Communications    | 1100-1 |
| 1102 | Adverse Communications           | 1100-1 |
| 1103 | Suggestions                      | 1100-1 |
| 1104 | Public Relations                 | 1100-1 |
| 1105 | Reporting of Improper Activities | 1100-2 |

## **1200 DISPUTE RESOLUTION**

|      |                              |        |
|------|------------------------------|--------|
| 1201 | Dispute Resolution Procedure | 1200-1 |
|------|------------------------------|--------|

## **1300 EMPLOYEE ACKNOWLEDGEMENT FORM**

## **100 INTRODUCTION**

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### **101 *Welcome Message***

We would like to welcome you and congratulate you on your appointment to a position with the Town of Newcomb. As a part of our team, you take on an extremely important role, that of serving the members of our community. Together, our mission is to provide cost-effective services that conform to the highest standards of quality.

This Employee Handbook is designed to familiarize you with your employment and to help ensure government compliance, foster positive employee relationships, and contribute to the overall success of the Town in delivering services to the public effectively and efficiently.

Please keep in mind that this is only an overview of the Town's policies and procedures, employee benefits, and the Civil Service System. Specific questions concerning employment matters should be addressed to your supervisor.

We trust that you will find service with the Town of Newcomb rewarding both personally and professionally.

## **102 Our Heritage**

Newcomb's diverse history began with Indians, Loggers, Miners and even includes Theodore Roosevelt becoming President of the United States.

According to Indian legend, this region was previously occupied in Colonial times by two tribes of Indians. the Algonquin Nation & the powerful Iroquois. Many artifacts were discovered in the area and although the Indians fished & hunted in Newcomb, there is no known evidence that they lived here during the harsh winters.

Newcomb itself was established March 15, 1828 in the "Center of the Adirondack Wilderness", and is surrounded by unspoiled lakes and majestic views of the High Peaks. Our elevation is 1,500 feet and the major peaks range from 3,000 to 5,344 feet above sea level.

Logging is a large part of our history. Many of the French Canadians who came to work for the logging companies have remained to this day. Farmers of the area also worked for the logging companies in the winter to help support their families.

Finch Pruyn & Co. has been an important part of our logging history. They moved their company from Canada to Newcomb in 1928. The farm was used to supply their various logging camps.

Archibald McIntyre sent his son John, and Duncan McMartin, to search for silver in the Adirondack Mountains. According to legend a young Indian led them to the site where they found large quantities of iron ore on the outskirts of Newcomb Village. They formed the Adirondack Iron & Steel Company. Some of the buildings as well as the blast furnace are still on the site.

Later, the Adirondack Steel Company mine was sold to The National Lead Company who discovered titanium in the area, which was used for paints during the Second World War. The property and developed titanium site was previously owned by NL Industries. In 2003 the property was purchased by the Open Space Institute.

In 1963, The National Lead Company moved the entire Village of Tahawus to the Winebrook area in Newcomb so they could expand their mining operations. Many of the employees retired and live in Newcomb. In 1990 the mine closed due to economics.

During the depression the Civilian Conservation Corp., Camp S-129, housed over 200 young men in Company 1297 in Newcomb. We can thank the men of the CCC for many of the trails and roads we enjoy and use today. They were also responsible for planting many trees.

Archer & Anna Huntington donated their 15,000 acre Adirondack estate to the State University of New York / Environmental Science and Forestry in 1932, to be used for research and education. Huntington & Arbutus Lodges, once joined as an original Durant Adirondack Camp, served as the Huntington's summer camp and retreat. The Adirondack Ecological Center was established in 1972 on the Huntington Wildlife Forest to provide the scientific community and the people of New York with a greater understanding of the Adirondack ecosystem through research.

Teddy Roosevelt spent many vacations as a young lad in the Adirondacks. While staying at the Tahawus Club, located in the township of Newcomb, and hunting on Mount Marcy, Guide Harrison Hall climbed Mount Marcy to inform TR that President McKinley was near death. Enroute from Tahawus to the North Creek train station, TR became President of the United States, upon the death of McKinley. A Memorial Plaque, on Route 28N, marks the site of this event.

Camp Santanoni was visited by Teddy Roosevelt many times. This 12,500 acre Great Camp from the late 1800's, open year round, is being restored and many of the buildings such as the main lodge, kitchen and studio are still there to see. The farm complex, the barn, creamery, smoke house and worker's homes are also being restored. The distinctive gatehouse of stone and wood greets you as you start your hike, bike or ride in on horse drawn wagons to the main house of the Great Camp.

## 103 **Definitions**

**Town of Newcomb** – For purposes of this Employee Handbook, the Town of Newcomb may be referred to as the “Town”.

**Town Board** – For purposes of this Employee Handbook, “Town Board” will mean the Town Board of the Town of Newcomb.

**Elected Official** – For the purposes of this Employee Handbook, “Elected Official” will mean and refer to any of the following elected officials of the Town of Newcomb:

- Town Supervisor
- Town Board Members
- Town Justices
- Town Clerk
- Superintendent of Highways
- Tax Collector
- Assessors

**Town Supervisor** – For purposes of this Employee Handbook, “Town Supervisor” will mean the Town Supervisor of the Town of Newcomb. When referenced in this Employee Handbook, Town Supervisor shall also mean an individual acting with the Town Supervisor’s properly designated authority.

**Supervisor** – For purposes of this Employee Handbook, “supervisor” will mean a person in charge of any department or subdivision of the Town of Newcomb, or an individual so designated by the Town Board to direct and inspect the performance of employees. This definition will be applicable in the event such person is serving in an acting, temporary, or provisional status in that capacity.

**Employee** – For the purposes of this Employee Handbook, “employee” will mean a person employed by the Town, including, but not limited to, an appointed official, an appointed member of a board or commission, supervisor, managerial employee, confidential employee, supervisory employee, provisional employee, probationary employee, temporary employee, seasonal employee, trainee, or student intern, but not an independent contractor.

**Bargaining Unit Employee** – For the purposes of this Employee Handbook, “bargaining unit employee” will mean an employee who is part of a group (e.g. the *Town of Newcomb Highway Employees’ Association*) which negotiates terms and conditions of employment pursuant to the provisions of Public Employees Fair Employment Act (commonly known as the Taylor Law).

**Civil Service Law** – For purposes of this Employee Handbook, “Civil Service Law” shall mean the New York State Civil Service Law and shall include the *Rules for the Classified Civil Service of Essex County*.

## **104    *The Purpose of this Employee Handbook***

**Statement of Purpose** – The purpose of this Employee Handbook is to communicate the Town’s personnel policies and practices to all employees and Elected Officials. It is extremely important that each employee understand the policies that relate to rules, regulations, procedures, practices, work standards, employment classifications, compensation, and benefits. **This Employee Handbook is not a contract of employment, express or implied, and should not be construed as such.** That is, employment can be terminated at any time at the will of either the employer or the employee, subject only to such procedural requirements as may be specified pursuant to New York State Civil Service Law, Town Law, collective bargaining agreement, or any other applicable law, rule, or regulation. The provisions and policies contained in this Employee Handbook are intended to supersede any and all prior manuals, guidelines or related policies issued by the Town of Newcomb.

Unless otherwise required by law, the provisions of this Employee Handbook are for Town use only and do not apply in any criminal or civil proceeding. The Employee Handbook provisions shall not be construed as a creation of higher legal standard of safety or care. Notwithstanding the above, a violation of a Handbook provision may form the basis for administrative action by the Town and any subsequent judicial or administrative proceeding.

**Plan Documents** – Some of the subjects described in this Handbook are covered in greater detail in benefit plan documents or applicable laws governing the benefit, such as New York State Retirement Law for retirement benefits. This handbook only briefly summarizes those benefits. The terms of written insurance policies, benefit plans, and applicable laws and regulations control in all cases.

**Previous Personnel Policies** – Unless otherwise specified, this Employee Handbook supersedes and replaces any previous personnel policies issued by the Town concerning all policies contained herein.

**Collective Bargaining Agreements** – In the event an expressed and explicit provision set forth in a collective bargaining agreement between the Town of Newcomb and an employee organization as defined by the Public Employees’ Fair Employment Act (e.g. the *Town of Newcomb Highway Employees’ Association*) should conflict with an employee benefit, personnel policy, personnel procedure, or other provision set forth in this Employee Handbook, the expressed and explicit provision of the collective bargaining agreement will control. Otherwise, unless expressly excluded herein, this Employee Handbook will be applicable to all employees.

**Questions** – Any questions regarding any topic covered in this Employee Handbook should be directed to the appropriate supervisor.

**105 Changes or Modifications**

**Rights of the Town Board** – The Town Board reserves the right to interpret, change, modify, or eliminate any provision contained in this Employee Handbook.

**Governmental Actions** – This Employee Handbook is subject to alteration by resolutions of the Town Board, changes in Town and/or departmental rules, or changes in federal, state or local statutes, rules, or regulations. (This is not meant to be a comprehensive list).

**Statutes, Laws and Ordinances** – In the event a federal or state statute or a Town Law or ordinance should conflict with any provision contained in this Employee Handbook, then such statute, law or ordinance will prevail.

## **200 EMPLOYEE CLASSIFICATIONS**

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For purposes of this Employee Handbook, the following terms shall be defined as indicated. The definition provided for each of these terms applies only within the context of this Employee Handbook. The meaning and use of these terms or similar terms may be different in the context of Civil Service Rules or a collective bargaining agreement.

### **201 Full-Time Employees**

For purposes of this Employee Handbook, the term “full-time employee” will mean an employee who is regularly scheduled to work a minimum of thirty-five per week.

### **202 Part-Time Employees**

For purposes of this Employee Handbook, the term “part-time employee” will mean an employee who is scheduled on a regular and on-going basis to work twenty hours or less per week.

### **203 Temporary Employees**

For purposes of this Employee Handbook, the term “temporary employee” will mean an employee who is employed on an interim or sporadic basis, or who is employed to work on a special, emergency, or on-call basis for a specified period, consistent with the Civil Service Law as applicable.

### **204 Seasonal Employees**

For purposes of this Employee Handbook, the term “seasonal employee” will mean an employee who is employed to work for a given season.

### **205 FLSA Non-Covered Employees**

For purposes of this Employee Handbook, “FLSA non-covered employee” will mean an employee not covered under the Fair Labor Standards Act (FLSA).

### **206 FLSA Exempt Employees**

For purposes of this Employee Handbook, “FLSA exempt employee” will mean a covered employee who qualifies for an exemption from the minimum wage and overtime provisions of the Fair Labor Standards Act.

### **207 FLSA Non-Exempt Employees**

For purposes of this Employee Handbook, the term “FLSA non-exempt employee” will mean a covered employee who is subject to the minimum wage and overtime provisions of the Fair Labor Standards Act.

## **300 THE CIVIL SERVICE SYSTEM**

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The following is intended as a guide. The Civil Service Law and the *Rules for the Classified Civil Service of Essex County* shall govern regarding the jurisdictional classification of positions and the appointment and promotion of personnel.

### **301 The Unclassified and Classified Services**

**Unclassified Service** – In accordance with Civil Service Law and for purposes of this Employee Handbook, the term “Unclassified Service” will include all individuals who are Elected Officials and/or members of boards or commissions.

**Classified Service** – In accordance with Civil Service Law and for purposes of this Employee Handbook, the term “Classified Service” as defined by the Civil Service Law and the *Rules for the Classified Civil Service of Essex County* will include all Town employees who are subject to the *Rules for the Classified Civil Service of Essex County*. The Classified Service is divided into four jurisdictional classes:

- **Exempt** – those positions, other than unskilled labor positions, for which competitive or non-competitive examinations or other qualification requirements are not practicable (Civil Service Law, Section 41);
- **Competitive** – those positions for which it is practicable to determine merit and fitness by competitive examination;
- **Non-Competitive** – those positions not in the exempt class or the labor class for which it is not practicable to determine merit and fitness by competitive examination, but rather by a review of training and experience; and,
- **Labor** – unskilled labor positions, except those positions which can be examined for competitively.

### **302 Civil Service Appointments**

**Competitive Class** – In accordance with Civil Service Law, the following types of appointments may be made to positions in the Competitive Class:

- **Permanent** – an appointment to a vacant position in the Competitive Class from an eligible list established as a result of examination, following successful completion of a probationary term;
- **Provisional** – an appointment to a vacant position in the Competitive Class when there is not an appropriate eligible list. A provisional appointee must take an examination whenever it is scheduled. Thereafter, a permanent appointment will be made on the basis of the eligible list resulting from the examination; or

- **Temporary** – an appointment to a position in the Competitive Class for reasons including, but not limited to: emergency work projects; planned termination of the position after a limited time; to replace an employee who is on a leave of absence; to fill a position funded through a temporary grant; or to fill a position vacated by the promotion of another employee until the employee who has been promoted receives permanent status.

### **303 Examinations and Promotions**

**Examinations** – In accordance with Civil Service Law, in the event there is a vacancy in a new or existing position in the Competitive Class which the Town intends to maintain, the Town will fill the vacancy by selection from the eligible list certified by the Essex County Department of Personnel and Civil Service of persons who have taken the appropriate Civil Service examination. The Essex County Department of Personnel and Civil Service will test and rank each candidate according to the individual's performance on the examination. In accordance with Civil Service Law Section 61, the Town will select one of the top three available candidates on the list to fill the position.

**Promotions** – The Town will offer opportunities for advancement for those employees who qualify. In the event the position is in the Competitive Class, a qualified employee must normally take a promotional examination and the above “one of three” will apply. An employee who wants to be promoted should become knowledgeable about the employee's present position and be aware of higher level positions for which the employee may be qualified.

### **304 Veterans Credits**

**Summary** – An employee who is a veteran as defined by the Civil Service Law may be eligible to apply for veterans credits on a Civil Service examination. An employee who is a veteran should contact the Essex County Department of Personnel and Civil Service for details concerning these credits.

## **400 EMPLOYMENT MATTERS**

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### **401 Oath of Office**

**Requirement** – Each Public Officer as defined in the Public Officers Law must take the Oath of Office in accordance with Town Law Section 25 and Public Officers Law Section 10, which must be administered prior to commencing the duties of the office. Each official who is re-elected or re-appointed to a subsequent term must take the Oath of Office for each term.

Upon original appointment or upon a new appointment following an interruption of continuous service, each employee (other than an employee in the labor class) must take an oath or alternate affirmation as set forth in Civil Service Law Section 62.

**Filing of Oath** – The Oath of Office is filed in the Town Clerk’s Office within thirty calendar days of the Public Officer’s commencement of the term of office, or upon an employee’s appointment.

### **402 Procedure for Filling Vacancies**

**Statement of Compliance** – The Town of Newcomb complies with all applicable federal, state and local laws, rules, and regulations throughout the employee selection process, including, but not limited to, the Public Officers Law, Town Law, Civil Service Law, Title VII, Human Rights Law, the Age Discrimination in Employment Act and the Americans with Disabilities Act, and is an Equal Opportunity employer.

**Notification of Vacancies** – In the event there is a vacancy in a new or existing position which the Town intends to maintain, the vacancy may be advertised and/or posted and qualified individuals interviewed. The Town reserves the right to fill a position either internally or with an external candidate.

**Employment Applications** – Any person seeking employment with the Town must complete an Application for Employment and submit a letter which states the reason for the applicant’s interest in working for the Town. The Town relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in the Town’s exclusion of the individual from further consideration for employment or disqualification if the conduct is discovered after employment commences.

**Employment Reference and Background Checks** – To ensure that individuals who join the Town are well qualified and have a strong potential to be productive and successful, it is the policy of the Town to check the employment references of final applicants. Applicants will be required to complete a hold harmless statement in order for the Town to conduct appropriate background checks.

## **403 Employment of Relatives**

**Policy Statement** – A member of an employee’s immediate family may be considered for employment by the Town if the applicant possesses all of the qualifications for employment. An immediate family member may not be hired, however, if the employment would create either a direct or indirect supervisory/subordinate relationship with the family member; or create either an actual conflict of interest or the appearance of a conflict of interest. These criteria will also be considered when assigning, transferring or promoting an employee.

**Definition of Immediate Family** – For purposes of this policy, “immediate family” includes the employee’s spouse, brother, sister, parents, children, step-children, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, and any other member of the employee’s household.

**Elected Officials** – This policy is not intended to supersede the appointing authority of Elected Officials and does not apply to such appointments.

**Marriage** – Employees who marry or become members of the same household may continue employment as long as there is not a direct or indirect supervisor/subordinate relationship between the employees, or an actual conflict of interest or the appearance of a conflict of interest. Should one of the above situations occur, the Town will attempt to find a suitable position with the Town to which one of the affected employees may be appointed. Such appointment must be in accordance with applicable state and local statutes, including Civil Service Law and related rules and regulations. If accommodations of this nature are not feasible, the employees will be permitted to determine which one of them will resign.

**Competitive Class Positions** – This policy is not intended to supersede civil service regulations pertaining to appointments made to competitive class positions. Therefore, this policy cannot be used as a basis for denying the appointment of an individual to a competitive class position even if such appointment would constitute the employment of a relative as defined by this policy.

#### **404 Probationary Period**

Except as otherwise provided in a collective bargaining agreement, the following Civil Service probationary provisions shall apply.

**Purpose of Probationary Period** – The probationary period is for an employee to become familiar with the specific duties and responsibilities of the employee’s new position. The probationary period also provides the supervisor with an opportunity to evaluate the employee’s job performance and potential for development in the position.

**Length of Probationary Period** – Except as otherwise provided in the *Rules for the Classified Civil Service of Essex County*, every permanent appointment from an open competitive list, and every original appointment to a position in the non-competitive, exempt or labor class shall be for a probationary term of not less than eight nor more than twenty-six weeks. The length of the probationary period may be extended in accordance with the *Rules for the Classified Civil Service of Essex County*.

**Successful Completion of Probationary Period** – An employee’s appointment will become permanent upon the retention of the employee after completion of the maximum period of service required. Or, an employee’s appointment will become permanent upon written notice that the probationary period has been successfully completed following the minimum period of service required. A copy of such notice must be sent to the Essex County Personnel Officer. Except as otherwise provided by law, completion of the probationary period does not necessarily confer rights or privileges in the position.

**Failure to Successfully Complete Probationary Period** – In the event the employee’s performance or conduct is not satisfactory, the Town may dismiss the employee from employment at any time after the completion of the minimum probationary period and before completion of the maximum probationary period. If the performance or conduct of an employee serving a probationary period who has been promoted or transferred from a permanent appointment (as defined by civil service regulations) is not satisfactory, the employee shall be returned to the employee’s former permanent position prior to the end of the probationary period.

#### **405 New Employee Orientation**

**Procedure** – The purpose of the new employee orientation is to welcome new employees and to familiarize them with the Town and their job. The orientation process generally consists of, but is not limited to, a tour of the employee’s assigned worksite, distribution and review of this employee handbook, and enrollment in benefit plans, if applicable. In addition, the employee’s Department Head is responsible for introducing the employee to co-workers, scheduling on-the-job training, and reviewing the job description and performance requirements of the position.

## **406 Performance Review**

**Statement of Purpose** – The purpose of a performance review is to promote communications between Department Heads and employees, encourage more effective job performance, and address concerns of either party. The review will address factors that reflect the employee's performance, such as the employee's work quality, job knowledge, initiative, attendance, teamwork, conduct, and communication skills.

**Frequency** – An employee will be formally evaluated prior to completion of a probationary period. Thereafter, reviews will take place on an as needed basis to provide the employee with positive feedback or recommendations for improvement or both, depending upon circumstances.

**Written Report** – When appropriate, the performance review may include a written report to ensure proper understanding of the issues addressed. Should deficiencies be recorded in the performance of the employee, the employee will receive written recommendations for improvement. The employee will be given the opportunity to include written comments on the report, which will become part of the employee's personnel file.

## **407 Corrective Action and Discipline**

**Policy Statement** – It is the policy of the Town of Newcomb that certain rules and regulations regarding employee behavior are necessary for the benefit and safety of all employees, the efficient operation of the Town, and the delivery of services to residents of the Town. Any conduct that interferes with operations or that discredits the Town will not be tolerated. Each employee must conduct oneself in a positive manner so as to promote the best interests of the Town. Corrective action is necessary when an employee has demonstrated performance deficiencies, or has violated a policy, rule, regulation, or procedure. Corrective action may include counseling or initiating formal disciplinary action against an employee.

**Communication** – Open and candid communications with all employees is an important aspect of the Town of Newcomb's on-going employee relations. When a rule, policy, or procedure is violated, the employee's supervisor will review the specific nature of the violation with the employee. The employee's input is extremely important to ensure that all of the facts have been considered.

**Counseling** – Counseling employees, as opposed to initiating formal disciplinary action, may be the appropriate first step in addressing performance deficiencies or misconduct. The purpose of counseling is to inform the employee of such deficiencies or misconduct, discourage its recurrence, and inform the employee of the consequences if the behavior is repeated. When performance deficiencies are the issue, the performance standards of the job should be reviewed, along with specific examples of how the employee is not meeting those standards. Where appropriate, goals for improvement may be established, along with a time frame for achieving them. The counseling will be documented in writing and the employee will be required to acknowledge receipt by signing the memorandum. Any employee who fails to follow a supervisor's directive to sign the counseling memorandum will be subject to disciplinary action.

**Discipline** – The purpose of disciplinary action is to impose penalties for performance deficiencies or misconduct. In **normal circumstances**, the Town endorses a policy of progressive discipline which includes, but may not be limited to, documented verbal reprimand, letters of reprimand, suspension without pay, or termination of employment, depending on the circumstances. The Town retains the right to discipline employees without engaging in progressive discipline or prior counseling if the situation so warrants and retains the right to discipline employees in any manner it sees fit.

**Investigations** – Where appropriate, an investigation will be conducted by the proper supervisor or other designated individual(s) in order to gather all pertinent information and to ensure that all the facts are considered. The investigation may include, among other things, interviews with the employee and any witnesses or other involved parties, and review of documents and materials. Employees who are participants in an investigation are not allowed to disclose the content or particulars of the investigation unless otherwise authorized. All employees who are called upon to participate in an investigation are required to fully cooperate in the process and respond truthfully to all questions posed. Failure to do so will subject the employee to appropriate corrective action. The Town reserves the right to suspend an employee while an investigation is conducted.

During the investigation process, a bargaining unit employee who appears to be a potential subject of disciplinary action may undergo questioning. Such employee will have the right to representation by the employee's certified or recognized employee organization under Civil Service Law Article 14, and will be given advanced notice of such right. In the event the employee requests representation, the employee will be allowed a reasonable period of time to obtain such representation. In the event the employee is unable to obtain such representation within a reasonable period of time, the employer will have the right to then question the employee.

**Procedures** – Employees covered by **Civil Service Law Section 75** shall be disciplined in accordance with the procedures contained therein. (Refer to Section 405 of this Employee Handbook).

**Prohibited Conduct** – Any employee who, after investigation, is found to have committed any of the actions listed below will be subject to corrective action, up to and including termination of employment. This list is illustrative only and does not limit the Town's right to impose discipline in other appropriate cases.

- Willful violation of Town's rules, policies, and procedures.
- Harassing (including sexual harassment), intimidating, coercing, threatening, assaulting, or creating a hostile environment against another employee, Elected Official, resident of the Town, supplier, visitor, or any other person, whether on or off Town premises.
- Engaging in any action that is in violation of the Town's Workplace Violence Prevention Policy.
- Possession of any weapon or dangerous instrument (including knives with over a three inch blade, firearms, and explosives) on Town property or in Town vehicles, except for those employees who are required as a condition of employment to bear a weapon.

- Possession, use, distribution/sale, or being under the influence of alcohol or controlled substances during hours of work or while on Town property or in Town vehicles.
- Willful or deliberate abuse, destruction, defacement, or misuse of Town property or the property of another employee, Elected Official, resident of the Town, supplier, visitor, or any other person.
- Theft or unauthorized possession, use, or removal of Town property or the property of another employee, Elected Official, resident of the Town, supplier, visitor, or any other person.
- Falsification or alteration of any records or reports including but not limited to employment applications, time records, work records, medical reports, absence reports, work-related injury reports, and claims for benefits provided by the Town.
- Making false statements about another employee, Elected Official, resident of the Town, supplier, visitor, or any other person. This includes knowingly making false accusations against another individual as to allegations of discrimination, sexual harassment or other harassment which is in violation of Town policy or applicable law.
- Preparation or manipulation of another employee's time record.
- Acts of sabotage, including the work of another employee.
- Making false statements about another employee, Elected Official, resident of the Town, supplier, visitor, or any other person. This includes knowingly making false accusations against another individual as to allegations of discrimination, sexual harassment or other harassment which is in violation of Town policy or applicable law.
- Insubordination or willful refusal to comply with the lawful order or instruction of a supervisor.
- Improper performance of job duties or repeated failure to perform assigned duties and responsibilities.
- Violation and/or disregard of safety rules or safety practices, including failure to wear assigned safety clothing or equipment, in such a way that jeopardizes the safety of the employee, another employee, Elected Official, resident of the Town, supplier, visitor, or any other person.
- Offensive or unprofessional behavior that is contrary to the Town's best interest, or any conduct that does not warrant public trust.
- Unauthorized expenditure of Town funds.
- Illegal gambling while on duty.
- Willful work slow down, work stoppage, or interfering with or restricting the performance of another employee or in any other way interfering with Town operations.
- Careless or negligent use or operation of equipment, including vehicles and machinery.

- Committing any violation of the law either on or off duty or on or off the work site that compromises or adversely affects the employee's fitness or ability to perform assigned job duties.
- Unauthorized absences or repeated failure to give proper notice.
- Excessive tardiness and/or absences except those absences covered by state and/or federal statutes.
- Leaving work area without permission, as defined by the supervisor.
- Failure to adhere to the personal appearance/dress code policy.
- Sleeping on the job, unless authorized by a supervisor.
- Personal activity during paid work time without the express permission of the supervisor.
- Use of personal listening devices (e.g. iPods/MP3 players, etc., with headphones / earbuds) during paid work time without the expressed permission of the Department Head. (Note: use of such devices is permitted during meal breaks and authorized rest breaks.
- Disruptive, loud, and boisterous behavior or horseplay in the workplace.
- Abusive language in the workplace, including racial slurs and epithets.
- Posting, removing, or defacing of notices, signs, or other written material without prior approval.

This list is not intended to be comprehensive and does not limit the Town's right to impose discipline in other appropriate cases.

## **408 Civil Service Law Section 75**

**Summary** – New York State Civil Service Law Section 75 establishes disciplinary procedures for covered employees. Section 75 affords a covered employee the opportunity for a hearing when charges of incompetence or misconduct have been made against the employee by the Town.

**Covered Employees** – In accordance with Civil Service Law, the following employees are generally covered under Section 75:

- A newly hired employee who has not completed the minimum probationary period as determined by civil service rules;
- An employee holding a position by permanent appointment in the **Competitive Class** of the classified Civil Service;
- An employee holding a position in the **Non-Competitive Class** who has been employed for at least five years of continuous uninterrupted service in the non-competitive class, other than a position designated in the Rules for the Classified Civil Service of Essex County as confidential or requiring the performance of functions influencing policy. Even though the employee has completed the required probationary period and has received permanent appointment or employment in the non-competitive class, the employee is not covered under Section 75 until the employee has completed five years of continuous service in the non-competitive class;
- An employee holding a position by permanent appointment or employment in the Exempt, Competitive, Non-Competitive, or Labor Class who is a qualified veteran as defined by the Civil Service Law, or exempt volunteer firefighter, as defined by the General Municipal Law, except when such an employee holds the position of private secretary, cashier, or deputy of any official or department. Specifically, the employee must have been honorably discharged or released under honorable circumstances from the armed forces of the United States having served therein as such member in time of war as defined in Section 85 of the New York State Civil Service Law, or the employee must be an exempt volunteer firefighter as defined in the General Municipal Law.

**Questioning Rights for Bargaining Unit Employees** – During the investigation process, a bargaining unit employee who is covered under Section 75 and who appears to be a potential subject of disciplinary action may undergo questioning. Such employee will have the right to representation by the employee's certified or recognized employee organization under Civil Service Law Article 14, and will be given advanced notice, in writing, of such right. In the event the employee requests representation, the employee will be allowed a reasonable period of time to obtain such representation. In the event the employee is unable to obtain such representation within a reasonable period of time, the employer will have the right to then question the employee.

**Disciplinary Procedure** – Except as otherwise provided by a collective bargaining agreement, the following disciplinary procedure shall apply to employees covered by Civil Service Law Section 75:

- **Notice of Discipline** – An employee subject to discipline will be provided with a written Notice of Discipline (NOD) which will contain all charges and specifications.

- **Employee Answer** – The employee will have eight calendar days to respond to the charges. The employee's response must be in writing.
- **Disciplinary Hearing** – Unless there is a stipulation of settlement between the Town and the employee, the employee is afforded the right to a hearing in accordance with provisions established by Civil Service Law Section 75. The hearing upon such charges shall be held by the officer or body having the power to remove the person against whom such charges are preferred, or by a deputy or other person designated by such officer or body in writing for that purpose.

The Appointing Authority will designate a hearing officer in accordance with Civil Service Law Section 75. The designation must be in writing. The hearing officer will set the time and place for the hearing. The hearing officer will make a record of the hearing which will be submitted to the Appointing Authority, with the hearing officer's recommendations, for review and decision.

**Right to Representation** – The employee may have representation by counsel or by a representative of a recognized or certified employee organization at the hearing and may summon witnesses on the employee's behalf.

**Suspension Without Pay Pending Determination of Charges** – Pending the hearing and determination of charges, the employee may be suspended without pay for a period not to exceed thirty calendar days.

**Penalties** – In the event the employee is found to be guilty of the charges, the penalty may consist of one of the following:

- Written reprimand;
- Fine not to exceed one-hundred dollars which will be deducted from the employee's pay;
- Suspension without pay not to exceed two months;
- Demotion in grade and title; or
- Termination from Town employment.

**Finding of Not-Guilty** – In the event the employee is found to be not guilty, the employee will be restored to the employee's position with full pay for the period of suspension less the amount of any unemployment insurance benefits that the employee may have received during such period.

**Limitations** – Notwithstanding any other provision of law, no removal or disciplinary proceeding will be commenced more than eighteen months after the occurrence of the alleged incompetence or misconduct complained of and described in the charges. Such limitation will not apply where the incompetence or misconduct complained of and described in the charges would, if proved in a court of appropriate jurisdiction, constitute a crime.

**Filing Requirements** – In the event the employee is found to be guilty, a copy of the charges, the employee's written answer, a transcript of the hearing, and the determination will be filed in the office of the department in which the employee is employed. A copy will also be filed with the Essex County Department of Personnel and Civil Service.

## 409    **Code of Ethics**

**Policy Statement** – Pursuant to the provisions of Section 806 of the General Municipal Law, the Town Board recognizes that there are rules of ethical conduct for Elected Officials and employees which must be observed so as to maintain a high degree of moral conduct and public confidence. Therefore, the Town Board has adopted rules of ethical conduct. These rules are in addition to Article 18 of the General Municipal Law and any other law pertaining to ethical conduct or interest in contracts.

**Definitions** – For the purpose of the Town of Newcomb’s Code of Ethics, the following terms shall have the meanings indicated:

- **Town** means any board, commission, district, council or other agency, department, or unit of the government of the Town of Newcomb.
- **Officer or Employee** means any officer, official or employee of the Town of Newcomb, whether paid or unpaid, and whether serving in a full-time, part-time or advisory capacity.
- **Interest** means a pecuniary or material benefit accruing to the following: 1) An officer or employee, his/her spouse, minor children, or dependents; 2) A firm, partnership or association of which such officer or employee is a member or employee; 3) A corporation of which such officer or employee is an officer, director or employee; 4) A corporation any stock of which is accrued or controlled, directly or indirectly, by such officer or employee.

**Standards of Conduct** – Every officer or employee of the Town of Newcomb shall be subject to and abide by the following standards of conduct:

- **Gifts** – An officer or employee shall not, directly or indirectly, solicit any gift or accept or receive any unsolicited gift having a value of seventy-five dollars or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence the officer or employee, or could reasonably be expected to influence the officer or employee, in the performance of official duties or was intended as a reward for any official action on the officer’s or employee’s part.
- **Confidential information** – An officer or employee shall not disclose confidential information acquired in the course of official duties or use such information to further personal interest.
- **Business before the Town or one’s own agency** – An officer or employee shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he/she is an officer, member, or employee, or of any municipal agency over which the officer or employee has jurisdiction or to which the officer or employee has the power to appoint any member, officer or employee.

- **Representation before the any agency for a contingent fee** – An officer or employee shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of the Town, whereby the officer's or employee's compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this provision will not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- **Disclosure of interest in legislation** – To the extent that an officer or employee knows thereof, a member of the Town Board or any officer or employee of the Town of Newcomb, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town Board on any legislation before the Town Board must publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest the officer or employee has in such legislation.
- **Investments which conflict with official duties** – An officer or employee shall not invest or hold any investment, directly or indirectly in any financial, business, commercial, or other private transaction which creates a conflict with official duties.
- **Private employment** – An officer or employee shall not engage in, solicit, negotiate for, or promise to accept private employment, or render services for private interests, when such employment or service creates a conflict with or impairs the proper discharge of official duties.
- **Future representation before the Town** – An officer or employee may not, after the termination of service or employment with the Town, appear before any board or agency of the Town of Newcomb in relation to any case, proceeding or application in which the officer or employee personally participated during the period of service or employment or which was under the officer's or employee's active consideration.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the Town of Newcomb, or any agency thereof on behalf of himself or herself or any member of his or her family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

**Penalties for Offenses** – In addition to any penalty contained in any other provision of law, any person who shall knowingly violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

## **410 Personnel Records**

**Policy Statement** – It is the policy of the Town to balance its need to obtain, use, and retain employment information with a concern for each employee's privacy. To this end, the Town will endeavor to maintain only that personnel information necessary for the conduct of the Town's business or required by federal, state, or local law. Personnel records will be maintained for current and past employees in order to document employment related decisions and comply with government record keeping and reporting requirements.

**Content** – The personnel records maintained by the Town include, but are not limited to, Employment Applications, Report of Personnel Change Forms; copies of job-required licenses and certificates, Federal and State Withholding Tax Forms, Retirement Enrollment/Waiver Forms, Health Insurance Enrollment/Waiver Forms, performance appraisals, grievance or dispute resolution notices, counseling memoranda, notices of discipline, and probationary reports.

**Location of Files** – All original personnel records for current employees will be maintained and controlled by either the Clerk to Supervisor or Highway Superintendent, as appropriate to the employee's department.

- *Immigration (I-9) Forms* – All Immigration (I-9) Forms will be kept in a separate file apart from the employee's personnel file.
- *Medical Records and/or Substance Testing Records* - All employee medical records and substance testing records (if applicable) will be kept in a separate file apart from the employee's personnel file. **For security purposes, these files will be locked at all times.**

**Change in Status** – An employee must immediately notify the Clerk to Supervisor of a change of name, address, telephone number, marital status, number and age of dependents, beneficiary designations, and individuals to notify in case of emergency.

**Review of Personnel Files** – Access to personnel files is limited. A current employee may review the contents of the employee's own personnel file by submitting a written request to the Clerk to Supervisor or Highway Superintendent, as appropriate. The review will be scheduled at a mutually convenient time. An authorized official must be present when the employee inspects the file. An employee may not copy, remove, or place any material in the employee's personnel file without the approval of the Clerk to Supervisor or Highway Superintendent, as appropriate.

## **411 Separation from Employment**

**Notice of Resignation (Employees)** – An employee who intends to resign from employment must submit a written resignation to the employee's supervisor at least two weeks before the date of resignation is to be effective. All resignations shall be filed in the Town Clerk's Office.

**Completion of Notice Period** – When a resignation notice is provided by an employee, the Town reserves the right to waive some or all of the notice period.

**Notice of Resignation (Town Officers)** – A Town Officer (as defined by Public Officers Law) must resign by delivering a written notice to the Town Clerk. If no effective date is specified, the office becomes vacant immediately upon delivery of the notice to the Town Clerk. If a Town Officer wishes to resign at some future date, the Town Officer may specify a resignation date. However, if the resignation date is more than thirty days after delivery of the notice to the Town Clerk (ninety days for Justices), the resignation will become effective thirty days after such delivery (ninety days for Justices).

**Notice of Resignation (Town Clerk)** – The Town Clerk who intends to resign must submit a written resignation to the Secretary of State at least thirty calendar days before the date of resignation is to be effective.

**Exit Interviews** – Exit interviews may be conducted by the employee's supervisor and/or Town Supervisor. The exit interview provides an opportunity to discuss a number of items including employee benefits, COBRA eligibility, changing of computer passwords, and return of Town property. During the exit interview, employees are encouraged to give suggestions, concerns and constructive recommendations.

**Final Paycheck** – Employees receive their final paycheck on the next regularly scheduled payday. The final paycheck includes payment for accumulated vacation benefits, if applicable.

## **500 OPERATIONAL POLICIES**

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### **501 Departmental Hours**

**Normal Hours of Operation** – The normal hours of operation are established by the Town Board at the annual organizational meeting. An employee’s supervisor will establish the employee’s work schedule, which may differ from the normal hours of operation depending upon the particular needs and requirements of the department. The Town Board reserves the right to approve all employee work schedules, except where otherwise prohibited by applicable State or Town Law.

**Flex-Time** – An employee may begin and/or end a given workday at a time requested by the employee and approved by the supervisor. Such “flex-time” must normally be during the time the department is open and available to the public. The employee’s use of “flex-time” will be governed by the mutual needs and consent of the supervisor and the employee. The Town Supervisor and the Town Board reserve the right to approve all “flex-time” schedules.

**Department Head Absences** – Department Heads have duties that may require them to be absent from their offices at certain times during the day. In the event that a Department Head is absent from the office, basic departmental forms should be readily available for distribution and/or collection. It is the Department Head’s responsibility to determine what services are to be provided and to schedule coverage of these basic services during scheduled business hours.

**Overtime** – A supervisor may require an employee to work additional hours beyond the employee’s normal workday and workweek. An employee must receive prior approval from the employee’s supervisor before working additional hours.

**Refusal to Work Additional Hours** – An employee who, after investigation, is found to have refused to work additional hours as directed will be subject to appropriate disciplinary action.

**Arriving at Work Before or Leaving After Scheduled Work Hours** – Arriving at work before the scheduled starting time or leaving work after the scheduled ending time for an employee’s own convenience is permitted but is not to be included in working time. No work may be performed for the Town outside of the employee’s regular work schedule unless prior approval has been obtained from the Department Head (i.e. unauthorized overtime is prohibited). Violations of this policy will result in appropriate corrective action. (This provision applies only to FLSA non-exempt employees.)

**Bargaining Unit Employees** – The work schedules of employees covered by a collective bargaining agreement shall be governed by the applicable collective bargaining agreement.

## **502 Meal Breaks and Breaks for Nursing Mothers**

**Meal Breaks** – An employee who works more than six hours in a given day will receive an unpaid, duty-free meal break not to exceed thirty minutes.

**Scheduling of Meal Breaks** – Scheduling of meal breaks must be approved by the supervisor in accordance with the needs and requirements of the department. Meal breaks must normally be taken in the middle of the employee's workday. Unless otherwise directed by the supervisor, an employee may leave the work-site during the meal break.

**Observance of Meal Periods** – In accordance with New York State regulations, an employee who works more than six hours in a given day is required to take the scheduled meal period. An employee is not allowed to work through the meal period to make up lost work time or to leave work early. In addition, the meal period may not be taken at the end of an employee's workday in order to leave work before the normal quitting time. [The Town Supervisor may authorize exceptions to these requirements in the event of a "one-employee shift", under NYS Labor Law §162 guidelines.] *[Revised 12/18/08]*

**Breaks for Nursing Mothers to Express Breast Milk** – Employees who are nursing mothers shall be allowed to use a reasonable break (generally between twenty to thirty minutes) in addition to the employee's meal and rest breaks to express milk for a nursing child. The Town will provide this break at least once every three hours if requested by the employee. This provision applies to nursing mothers for up to three years following childbirth. The Town will make a reasonable effort to provide a room or location other than the restroom or toilet stall, within walking distance to the employee's work space, or other location in close proximity to work so that nursing mothers can express in private. An employee wishing to avail herself of this break is required to give the Town advance notice, preferably prior to the employee's return to work following the birth of her child, to allow the Town an opportunity to establish a location and to schedule leave time for multiple employees, if needed.

**Bargaining Unit Employees** – Meal Breaks provisions for a bargaining unit employee are set forth in the applicable collective bargaining agreement.

## **503 Emergency Situations**

**Closing Procedures** – In the event that extraordinary weather conditions or other emergencies develop prior to the beginning of the workday, the Town Supervisor may authorize the closing of non-emergency operations, or, if extraordinary weather conditions or other emergencies develop during a workday, the Town Supervisor may direct that certain employees who perform non-essential services leave work.

**Payment of Wages** – Pay for FLSA non-covered or exempt employees will not be affected by an emergency closing. Pay for FLSA non-exempt employees will be in accordance with the provisions below:

- **During Work** – A full-time or part-time employee who is directed by the Town Supervisor to leave work due to an emergency closing will be paid for the remainder of the employee's normal workday at the employee's regular rate of pay. Such time will not be included as time worked for the purpose of computing overtime. A temporary or seasonal employee who is directed to leave work due to an emergency closing will not be paid for the remainder of the employee's normal workday. An employee who has previously scheduled a paid leave day must still charge the absence for the day to the appropriate paid leave.
- **Prior to Reporting to Work** – If a determination is made to close operations prior to the start of a workday, the Town Supervisor will initiate notification to all affected employees. A full-time or part-time employee who is directed not to report to work due to an emergency closing will be paid for the employee's normal workday at the employee's regular rate of pay. A temporary or seasonal employee who is directed not to report to work will not be paid for the workday. An employee who has previously scheduled a paid leave day must still charge the absence for the day to the appropriate paid leave.

**Inclement Weather** – Employees are expected to report to work and remain at work during inclement weather conditions unless otherwise notified by the Town. Employees should use their own discretion in determining whether they can commute safely to work due to inclement weather. When the Town Supervisor has not officially shut down operations, an employee who does not report to work or requests to arrive at work late or leave work early due to inclement weather must obtain prior authorization from his or her supervisor prior to doing so. The employee must use paid time-off (PTO) or vacation leave, if available, or take the time off without pay. If an FLSA exempt employee has no paid leave benefits available, the employee will only be docked if a full workday is taken.

## **504 Time Records**

**Policy Statement** – All **FLSA non-exempt employees** are required to complete an individual time record showing the daily hours worked. Employees in the Highway Department must punch a time card. An **FLSA exempt employee** is not required to record daily attendance but must account for authorized paid leave taken by completing a time record indicating such.

**Procedures** – An employee required to complete a time record or punch a time card must comply with the following procedures:

- Time records must be completed by the close of each workday;
- All time worked, including the beginning and ending time, must be recorded;
- All paid and unpaid leaves of absence must be recorded;
- Employees must complete their own time record or punch their own time card;
- Employees must sign the time record;
- The time record must be submitted to the supervisor at the time specified;
- The time record must be verified and signed by the employee's supervisor and/or the Town Supervisor and submitted to the Clerk to [\\* Supervisor by 12:00 p.m. on each Monday of a pay week.\\*](#)

**Correction of Errors** – An employee must immediately bring errors in time records to the attention of the employee's supervisor who will investigate the matter and make and initial the correction once the error has been verified.

**Unauthorized "Flex-Time"** – Unless prior approval has been obtained from the supervisor, arriving early or leaving late for the employee's own convenience is not to be included in working time, provided that the employee performed no pre-approved authorized duties for the Town during such intervals.

**Falsification of Time Records** – An employee who, after investigation, is found to have falsified or altered a time record, or the time record of another employee, or completed a time record for another employee, will be subject to disciplinary action. In extenuating circumstances where an employee is not able to complete the employee's own time record, the supervisor may complete the time record on behalf of the employee.

**Review and Verification** – The Town Supervisor will compare payrolls to time records, approve account transfers, review and sign all payrolls, and review all bank reconciliations.

[\\*Amended 11/18/2021](#)

## **505 Bonding**

**Insurance** – The Town will provide bonding insurance for an employee who is required to act in a fiduciary capacity.

## **506 Expense Reimbursement**

**Policy Statement** – Upon proper authorization of the Town Board, an employee or Elected Official will be reimbursed for expenses associated with carrying out Town business, including, but not limited to, meals, lodging, mileage, parking, highway tolls, and training and membership fees. A voucher with all required documentation and corresponding receipts must be submitted to the Clerk to Supervisor in order for the reimbursement to be processed.

**Expense Approval** – Each employee is expected to exercise reasonable judgment when incurring charges that will be submitted for reimbursement. Prior approval from the Department Head and/or Town Board will be required for significant or non-standard expenditures. The Town Board reserves the right to reject reimbursement requests that are deemed unreasonable or inappropriate.

**Mileage** – An employee who is directed by the appropriate supervisor to use the employee's own vehicle to conduct Town business will be reimbursed at the mileage rate established by the Town Board at the annual organizational meeting or the applicable collective bargaining agreement, as the case may be.

**Education and Training** – Upon proper authorization of the Town Board, an employee will be reimbursed for training courses that are directly related to the employee's present job. Employees must first seek approval from their supervisor before the request is presented to the Town Board.

**Required Membership Fees** – Upon proper authorization of the Town Board, an employee required to hold membership in a professional organization as part of the employee's job will be reimbursed for any required dues and/or fees.

## **507 Vehicle Usage**

**Policy Statement** – All vehicles and related equipment of the Town of Newcomb are owned and maintained for the purpose of conducting official business of the Town. Said vehicles and equipment may not be used for the personal use or private gain of any official or employee, nor for any other purpose which is not in the general public interest.

**Standards** – For the purpose of compliance with this policy, the following standards must be met at all times:

- Town vehicles and related equipment must remain under the general administrative jurisdiction and direction of the supervisor to which it is assigned.
- Town vehicles may be assigned to specific Town officials and employees for specific purposes and tasks. Said vehicles may not be used for any unauthorized purpose nor to conduct personal, private, or non-Town related business.
- Town vehicles must always be operated in a safe and responsible manner and in compliance with all applicable motor vehicle and traffic laws in effect. Employees are responsible for any driving infractions or fines that result from their operation of Town vehicles, and must report them to their supervisor. The Town is responsible and will pay for any fines which would typically be levied against the owner of the vehicle.
- Any accident involving a Town vehicle, regardless of severity, must be reported immediately to the appropriate supervisor. The supervisor must file an accident report with the Town Supervisor's Office within twenty-four hours.
- The use of a cell phone when driving on Town business must be compliant with all applicable laws and/or regulations.
- Town vehicles may not be used to transport persons who are not officials or employees of the Town of Newcomb, nor material not related to the conduct of official Town business, without direct authorization by the appropriate supervisor or the Town Board.
- Town vehicles must always be maintained in a safe and secure condition when not in use, including being locked and/or under direct observation; and all keys maintained under controlled and authorized jurisdiction of the appropriate supervisor.
- No advertisements, signs, bumper stickers or other markings of a political or commercial nature may be displayed on Town vehicles at any time, except those of a limited community service nature which have been authorized by the Town Board.

## **508 Driver's License / Insurance Requirements**

**Requirement** – An employee who is required to drive either a Town-owned vehicle or the employee's own personal vehicle to conduct business on behalf of the Town, must possess at the time of appointment, and must maintain throughout employment, a valid New York State driver's license. Proof of such license must be on file with the Town. If a personal vehicle is used to conduct business on behalf of the Town, the employee is responsible for ensuring liability insurance coverage meeting NYS requirements is appropriately maintained.

**Commercial Drivers** – An employee who operates a vehicle which requires a Commercial Driver's License (CDL), must maintain such license throughout employment. Proof of such license must be on file with the Town. In accordance with the federal Commercial Motor Vehicle Safety Act of 1986, a commercial driver must notify the Town within thirty days of a conviction of any traffic violation (except parking), no matter where or what type of vehicle the employee was driving.

**Loss of Driver's License** – An employee who is required to possess a driver's license or CDL license in order to perform certain job duties and responsibilities must immediately notify the appropriate supervisor in the event the license is suspended or revoked. The loss or suspension of the driver's license or CDL license may affect the employee's employment with the Town. The Town will utilize the NYS Department of Motor Vehicles' "License Event Notification Service" (LENS) to monitor activity that may negatively impact an employee's ability to maintain a required license.

**Insurability Standards** – It shall be solely the responsibility of a Town employee to meet or exceed all insurability standards, as established from time to time by the Town Board or the Town's insurance carrier, which are required for the use or operation of a Town vehicle. Any Town employee who has any of the following during the most recent three- year period will be deemed to have violated the insurability standard and will not be allowed to operate any Town vehicles:

- Conviction of DWI / DWAI
- Conviction of Reckless Driving
- Suspended or Revoked Driver's License
- Conviction of Speeding 25 MPH or more above the speed limit
- Conviction of a Drug or Alcohol offense which would materially affect one's ability to operate a vehicle
- Conviction of Hit and Run/Leaving the scene of an accident
- Conviction of Two or more at-fault accidents
- Conviction of Three or more moving violations in the past three years
- Conviction of failure to stop for stopped school bus
- Less than three years driving experience

Failure to maintain acceptable insurability standards may affect the employee's employment status with the Town.

## **509 Supplies, Tools and Equipment, and Fuel Usage**

**Supplies** – All Town owned supplies must be used efficiently and not wasted. An employee may not use any Town supplies including, but not limited to, postage, paper, or office supplies for personal use.

**Tools and Equipment** – With prior approval of the Highway Superintendent or Town Supervisor, an employee may be permitted personal use of Town-owned tools or equipment. If a tool or other equipment is removed from Town premises, the employee must indicate on a sign-out log when the item is taken and when it is returned. The sign-out log will include a disclaimer releasing the Town from any liability for damage or injury related to use of Town-owned tools or equipment. No Town equipment, supplies, or other material may be used by an employee for monetary gain. The employee must repair or replace any Town-owned tool or piece of equipment lost or damaged by the employee as a result of negligence or intentional misuse.

**Fuel** – An employee may not use gasoline, fuel oil, or motor oil purchased by the Town for personal use.

## **510 Telephone / Cell Phone / Electronic Device Usage**

**Guidelines** – Telephone and cell phone usage must adhere to the following guidelines:

- An employee must answer promptly and speak in a clear, friendly and courteous tone.
- An employee must give the name of the department or office and one's own name. If the call is not for the employee who answers, the employee must transfer the caller to the correct party or take a message recording all pertinent information.
- If the call must be placed on hold, the employee who answered the call must return to the line frequently to confirm that the call is being transferred.
- During office hours, each employee is responsible for there being at least one employee in the department or office to answer telephones. If the department or office has a limited staff, arrangements must be made with another department or office for telephone coverage or an answering device must be in operation.
- An employee may make personal telephone calls, however, such calls should be limited in duration and frequency and must not interfere with the performance of the employee's job duties.
- An employee may not make or receive personal calls on a Town provided telephone or cell phone that will result in additional charges to the Town, except in an emergency and/or with prior approval from the Department Head. The employee must reimburse the Town for the cost of the call.
- The use of Town issued cell phones is monitored to ensure no excessive or inappropriate use occurs.
- The use of a cell phone while driving on Town business must be in compliance with all applicable laws.

**Personal Cell Phone / Electronic Device Usage** – Employees are permitted to carry personal cell phones during working hours but must adhere to the guidelines shown below. These guidelines do not apply to Town-owned cell phones that are issued for the specific use of an employee's job duties. Where the term cell phone is used in these guidelines, it shall be considered to include all types of portable electronic devices (e.g. iPads, Kindles, MP3 players, netbooks, etc.)

- Cell phones may not be used for personal purposes during work hours except on a limited basis as outlined above, unless the employee is on an authorized break or has permission from a supervisor.
- Use of a cell phone for personal text messaging during work hours is permissible only on a limited basis for family matters; texting must not interfere with the performance of the employee's job duties.
- No web browsing, music, movies, or all other uses of cell phones will be allowed during working hours.
- Personal cell phones that are broken, damaged or lost during working hours will not be replaced or paid for by the Town.

## **511 Town of Newcomb Cyber Policy**

**Breach Notification Policy** – Consistent with § 208, Subdivision 2, of the State Technology Law (STL), any employee of the Town of Newcomb, upon learning of an unauthorized acquisition of electronic private information maintained by the Town of Newcomb as defined in § 208, Subdivision 1(a), of the STL, shall, as soon as possible and without unreasonable delay, notify the Town Supervisor who will provide written notice to any employee or resident of New York State whose private information may have been subject to such acquisition.

Private information shall mean personal information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted or encrypted with an encryption key that has also been acquired: social security number; driver's license number or non-driver identification card number; or account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account.

**Internet, Email and Personal Computer Use** – All Town of Newcomb computers, network resources, and internet access lines within the Town of Newcomb Town Hall, Town Highway Garage and other Town owned buildings, wherein the Town provided internet access are only to be used for official business of the Town. In no event are Town owned computers, network resources or internet access lines to be used for:

- creating, sending, posting, displaying or receiving any pornographic or obscene pictures, text, graphics, images, or materials,
- accessing any web sites that contain sexually explicit images and/or related materials,
- advocating or promoting any illegal activity, and/or advocating or promoting intolerance of others.
- creating, sending, posting, displaying or receiving any offensive, abusive, slanderous,
- libelous, defamatory, vulgar, harassing or intimidating messages, text, graphics, images
- or materials,
- creating or sending any viruses, worms, hoaxes or chain letters,
- engaging in any unwarranted invasion of the personal privacy of any individual,
- engaging in any unauthorized disclosure of sensitive or private information, or
- violating any licensing or copyright restrictions.

Users assigned use of a Town of Newcomb computer and network access may utilize such for incidental personal purposes, provided that such use does not:

- (a) unreasonably interfere with the use of computing and network resources by other users, or with the Town's operation of computing and network resources;
- (b) interfere with the user's employment or other obligations to the Town of Newcomb.

The Town of Newcomb reserves the right to examine email, personal file directories, web access and other information stored on local government computers, at any time and without notice

Any misuse of a Town computer, network resource, or internet access line, or noncompliance with the Town's written computer and internet usage policies, may result in one or more of the following consequences:

1. Temporary loss of privileges and/or deactivation of computer/network access/internet access.
2. Permanent loss of privileges and/or deactivation of computer/network access/internet access.
3. Disciplinary actions (including proceedings for removal from office by the appropriate Town board or Town officials and/or State boards or State officials.
4. Subpoena of data files and/or the application for and execution of a search warrant.
5. Legal prosecution under applicable United States, New York State, and/or Town of Newcomb policy's and local laws, ordinances, codes, rules and/or regulations.
6. Possible penalties under applicable Laws, including fines and/or imprisonment.

### **Use of and Access to Personal, Private, and Sensitive Information:**

**Confidential** – This classification applies to the most sensitive business information that is intended strictly for use within the Town of Newcomb. Confidential information is exempt from disclosure under the provisions of the New York State Freedom of Information Act and other applicable federal and state laws and regulations. The unauthorized disclosure of Confidential information can substantially harm the interests of Town of Newcomb or cause severe financial, legal, or regulatory damage to the Town of Newcomb, its customers, vendors, or employees. Compromise of confidential information could also prejudice the maintenance of law and order, impede the effective conduct of government, or violate the privacy of its citizens. For example, Town critical infrastructure information, emergency response plans or weaknesses, information on Town security weaknesses, passwords, or Private Health Information protected by HIPAA are considered Confidential.

**Sensitive** – This classification applies to information that requires special precautions in assuring the integrity of the information through protection from unauthorized modification or deletion. Sensitive Information requires a higher than normal assurance of accuracy and completeness and needs to be protected because of public interest. Compromise of Sensitive information would likely damage the interests of the Town of Newcomb or endanger the safety of its citizens. For example, sensitive information might include information concerning the Towns economic interests, project details or matters concerning legal affairs.

**Internal Use** – This classification applies to information that is intended only for use within the Town of Newcomb. External access to this data should be prevented but compromises are not critical. Internal access is selective. Data integrity is important but not vital. Examples of Internal Use information may include employee training materials, contractor bid information (prior to contract being awarded), and internal policies, standards, or procedures.

**Public Use** - This classification applies to non-sensitive information. Public Use information does not require authentication, is available to the public, and is intended for distribution outside the organization. Public Use information has been declared public knowledge by someone with the proper authorization and can disseminated without any possible damage to the Town of Newcomb. Unauthorized disclosure is still against policy; however, it is not expected to seriously or adversely impact the organization, employees, or customers.

Examples of Public Use information may include marketing brochures, advertisements, job announcements, and press releases that are available in the public domain.

**Password Security** – User authentication is a means to control who has access to an Information Resource system. Controlling the access is necessary for any Information Resource. Access gained by a non-authorized entity can cause loss of information confidentiality, integrity and availability that may result in loss of revenue, liability, loss of trust, or embarrassment to the Town of Newcomb.

The purpose of this policy area is to establish the rules for the creation, distribution, safeguarding, termination, and reclamation of the Town user authentication mechanisms and applies equally to all individuals who use any of Town information resources.

All passwords, including initial passwords, must be constructed and implemented according to the following rules:

1. It must be changed every 90 days. System software may be used for reminder purposes.
2. It must adhere to a minimum length 8 characters.
3. It must be a combination of alpha, numeric and special characters. The special characters are (! @ # \$ % ^ & \* \_ + = ? / ~ ` ; , < > | \)
4. Passwords must contain a mix of upper and lower-case characters and have at least 2 numeric characters. The numeric characters must not be at the beginning or the end of the password. Special characters must be included in the password.
5. It must not be anything that can easily tie to the account owner such as: user name, social security number, nickname, relative's names, birth date, etc.
6. Password history must be kept preventing the reuse of a password
7. Passwords must not be shared with anyone
8. Passwords must be treated as confidential information
9. Computing devices must not be left unattended without enabling a password protected screensaver or logging off the device when away from desk.
10. User account passwords must not be divulged to anyone.
11. If the security of a password is in doubt, the password must be changed immediately.
12. Town Officials and employees must not circumvent this Policy for the sake of ease of use.
13. Users cannot circumvent password entry with auto logon, application remembering, embedded scripts or hardcoded passwords in client software. Exceptions may be made for specific applications (like automated backup, or when Windows Authentication is in use) with the approval of the Town Supervisor. For an exception to be approved there must be a procedure to change the passwords.
14. While a department supervisor or employee may request access to your data via proper channels, they may not request your password, nor should a user feel obliged to supply their password.
15. In the event passwords are found or discovered, report the discovery to the Town Supervisor immediately.

**Wireless Security Policy** – The purpose of this policy is to establish the criteria governing the authorized use of personal or Town of Newcomb owned smartphone and tablet (mobile) devices where the owner has established access to the Towns wireless network enabling them to send and receive work related email messages, conduct other Town business or for incidental personal use.

Employees, public officials, contractors, consultants and public guests may use personally owned and Town owned mobile devices to access the Towns wireless network. Users who connect to the Town Wi-Fi network with a personally owned device will be allowed access through a secured GUEST Wi-Fi account approved by the Town Supervisor.

Internal Wi-Fi access will be password protected and access may only be granted by the Town Supervisor providing the need is limited to conducting Town business. The password will be changed under the terms of this policy every 90 days.

**Mobile Computing and Storage Device Policy** – It is the policy of the Town of Newcomb that mobile computing and storage devices containing or accessing the information resources must be approved prior to connecting to the information systems owned by the Town. This pertains to all devices connecting to the Towns network at the regardless of ownership.

Mobile computing and storage devices include, but are not limited to: laptop computers, personal digital assistants (PDAs), plug-ins, Universal Serial Bus (USB) port devices, Compact Discs (CDs), Digital Versatile Discs (DVDs), flash drives, modems, handheld wireless devices, wireless networking cards, cell phones and any other existing or future mobile computing or storage device, either personally owned or Town owned, that may connect to or access the information systems at the Town of Newcomb.

Mobile computing and storage devices are easily lost or stolen, presenting an elevated risk for unauthorized access and introduction of malicious software to the network. These risks must be mitigated to acceptable levels. Portable computing devices and portable electronic storage media that contain confidential, personal, or sensitive Town of Newcomb information, shall not be downloaded unless approval has been obtained from the Town Supervisor. Databases or portions thereof, which reside on the computer network at the Town of Newcomb, shall not be downloaded to mobile computing or storage devices without expressed authorization.

Lost or stolen devices which are known to contain confidential, personal, or sensitive Town of Newcomb information must be reported immediately to the Town Supervisor.

**Electronic Banking Policy** – The Town Board recognizes the use of various electronic banking transactions as a faster, easier, and more efficient substitute for paper transactions. Electronic banking uses computer and electronic technology to streamline the processing and recording of receipts and disbursements, while reducing the cost of processing these transactions. Receipts, disbursements and transfers in proper circumstances can be processed via electronic funds transfer (EFT) services, whether transferring funds from a savings to a checking account at the same bank, or making a payment to a vendor's bank across the country.

Internal controls, such as written policies and procedures, authorizations, segregation of duties and monitoring, however, are still important in the new technological world. The Town Board shall authorize the Town Supervisor to engage in electronic banking in accordance with all applicable laws and regulations including General Municipal Law Section 5-a authorizing the use of electronic or wire transfers and in conformity with the guidelines established by this policy.

The Town Board also recognizes that most banking institutions no longer provide cancelled paper checks to their customers, but instead offer an electronic image obtained online or on a CD. As such, the Town Board authorizes the acceptance of these electronic images in lieu of cancelled checks as required by statute.

- Scope – Electronic banking activities will be used for, but not limited, to the following:
  - Online banking services (reviewing account balances, retrieving bank statements, downloading
  - copies of cancelled checks, making stop payment orders, etc.)
  - Check fraud prevention services (Positive Pay – Payables Web Services)
  - Electronic depositing of checks received
  - Pre-authorized debit payments
  - ACH vendor payments
  - EFT or wire transfers
  - Electronic Federal Tax Payment System (EFTPS)
  - Electronic State Tax Payment System (Prompt Tax)
  - Employee direct payroll deposit transfers

Online Banking Services are recognized as standard practice and procedure for maintaining an effective cash management program. Access to any of the Town's online bank accounts will be managed by the Town Supervisor to allow other users restricted access as necessary for banking functions as needed. (Examples of various online banking functions include monitoring account balances, issuing stop payment orders, retrieving copies of cancelled checks, ordering deposit slips, etc.).

Check Fraud Prevention Services – To help protect against the threat of check fraud, a file of all Accounts Payable cash disbursement payments made by paper checks will be uploaded to the bank's web payables check fraud prevention system. This process provides details about checks the Town has written and compares that information to checks being processed to the bank for payment. The benefits include reducing the risk of check fraud by providing the Town with the ability to monitor and control checks presented against any Town account so only authorized items are paid.

Electronic Funds Transfers (EFT's) and wire payments can only be initiated by the Town Supervisor or its designee. The recording of such transactions will be captured manually using journal entries. Dual approvals are required for any transaction with an end recipient not a Town of Newcomb account or in a different financial institution. All payments made through this process are subject to the same claims audit process as exists currently with paper drawn checks. Releases of payments are made by the Accounting Officer only after the completion of the approval and claims audit process.

Revenue Collection:

1. Electronic Deposits of Checks by means of utilizing a secure banking check scanning device for checks received are authorized as delegated by the Town Supervisor. The use of an electronic scanning device helps improve security, efficiency and cost effectiveness of making deposits. Recording of such deposits will be the responsibility of the department in which the transaction occurred through the standard posting of the cash receipts monthly journal.
2. Electronic payments received from customers are acceptable and may be recorded via manual journal entries or through the regular cash receipts transaction journal.

Physical Security – All banking transaction will be conducted on a secure computer in the Town Hall used only for on-line banking purposes. Remote access to a computer used for online banking, shall not be permitted for of any purposes, by any person.

Monitoring – The Town Supervisor is responsible for implementing adequate internal controls for each of the electronic banking methods utilized. An effective internal control system includes, but is not limited to, segregation of duties, proper authorization, and adequate documentation for all electronic transactions.

## **512 Social Media**

**Policy Statement** – The purpose of the policy is to provide the framework for employee usage of Social Media, both inside and outside of the workplace. Social Media in general refers to internet based applications that allow for the creation and exchange of user generated content. Examples of Social Media include, but are not limited to: Facebook, Twitter, MySpace, LinkedIn, Instagram, Flickr, Snapchat, YouTube, web blogs, and web based wikis whereby users can add, modify, or delete its content via a web browser.

**Usage During Working Hours** – Unless the use of Social Media is pertinent to Town business or authorized by a Department Head, employees are prohibited from using Social Media during working hours. This applies regardless of whether or not such usage occurs on Town-owned computers or communication equipment or a device personally owned by the employee.

**Usage During Meal and Rest Breaks** – Employees are responsible for exercising good judgment when using Town-owned computers or communication equipment to access Social Media sites while on a meal and rest break. The Town's right to monitor communication systems and equipment also applies to the use of Social Media if employees are using Town computers or communications systems.

**Posting Content on Social Media (regardless of point of access)** – The following uses of Social Media are prohibited. These terms pertain to content posted from computers or communication systems that are not Town owned, as well as those that are Town property.

This list is meant to be illustrative, and not exhaustive.

- Disclosing confidential or proprietary information pertaining to matters of the Town that is not otherwise deemed accessible to the general public under the Freedom of Information Law (Public Officers Law Article 6, §§84-90).
- Matters which will imperil the public safety if disclosed.
- Promoting or endorsing any illegal activities.
- Threatening, promoting, or endorsing violence.
- Directing comments, or sharing images that are discriminatory or insensitive to any individual or group based on race, religion, gender, disability, sexual orientation, national origin, or any other characteristic protected by law.
- Knowingly making false or misleading statements about the Town, or its employees, services, or Elected Officials.

- Posting, uploading, or sharing images that have been taken while performing duties as an agent of the Town, or while wearing Town uniforms – the only exception to this rule is when it is directly pertinent to Town business and such posting, uploading, or sharing of images is authorized in advance by the appropriate Department Head.
- Representing that an opinion or statement is the policy or view of the Town, or of any individual acting in their capacity as a Town employee or official, or otherwise on behalf of the Town, when that is not the case.
- Posting anything in the name of the Town or in a manner that could reasonably be attributed to the Town without prior written authorization from the applicable Department Head.
- Using the name of the Town or a Town e-mail address in conjunction with a personal blog or Social Media account.

An employee's Social Media usage must comply with Town policies pertaining to but not limited to Non-Discrimination and Harassment, Confidentiality, Violence in the Workplace, and Substance Abuse. Any harassment, bullying, discrimination, or retaliation that would not be permissible in the workplace is not permissible between co-workers online, even if it is done after hours, outside of the workplace, using computers or communication systems that are not Town-owned.

Notwithstanding the above, nothing in this policy is designed to interfere with, restrain, or prevent employee communications regarding wages, hours, or other terms and conditions of employment. Nor is it meant to imply any restriction or diminishment of an employee's right to appropriately engage in protected concerted activity under law, including but not limited to NLRA Section 7 protected communications on non-work time. Town employees have the right to engage in or refrain from such activities as they choose.

**Reporting of Violations** – Anyone with information as to a violation of this policy is to report said information to the appropriate Department Head. Once the Department Head is informed of the violation, a formal process, consistent with this Employee Handbook and/or applicable law, will begin.

**Disciplinary Action** – An employee who violates this policy will be subject to disciplinary action up to and including termination of employment.

## **513 Personal Appearance**

**Policy Statement** – It is the policy of the Town that each employee's dress, grooming and personal hygiene should be appropriate to the work situation.

**Standards** – An employee must maintain a personal appearance in a manner that reflects a good image to the public. Acceptable personal appearance is an ongoing requirement of employment with the Town. Radical departures from conventional dress or personal grooming and hygiene standards are not permitted. Employees should wear clothing which is appropriate for the environment in which the job is being performed.

**Safety Clothing and Equipment** – An employee may be required to wear safety clothing and personal protective equipment as directed by the Department Head. If such is the case, the employee must comply with all safety requirements.

## **514 Solicitations/Distributions**

**Policy Statement** – It is the policy of the Town to prohibit solicitation and distribution on its premises by non-employees and to permit solicitation and distribution by employees only as outlined below.

**During Working Hours** – An employee may not distribute literature or solicit other employees during working hours without approval from the appropriate Department Head.

**During Meal and Rest Breaks** – With permission from the Department Head, an employee may distribute literature and solicit other employees during meal and rest breaks provided it does not interfere with the normal operations of the department, reduce employee efficiency, annoy fellow employees, or pose a threat to the Town's security.

## **515 Disclosure of Information**

**Policy Statement** – The Town of Newcomb promotes open government and complies with all requirements regarding public access to information. However, the Town recognizes that certain documents, records, and other information pertaining to Town operations and activities contain sensitive and confidential information about Town residents and others who do business with or on behalf of the Town and/or its residents. Such information cannot be photocopied, duplicated, discussed, or otherwise disclosed to any outside party except in accordance with the Freedom of Information Law or any other applicable laws and regulations. An employee is also prohibited from sharing or otherwise disclosing such information with other Town employees, family members or friends who do not have a Town business reason to have such information. This includes posting of such information in any public forum (computer or otherwise) or on computer social networking sites (Facebook, etc.)

**Responsibility for Security of Confidential Information** – Elected Officials, supervisors and employees are responsible for maintaining the security of documents, records and other information that fall within their department operations. Any request from outside parties for disclosure of information under the Freedom of Information Law or any other applicable laws or regulations must be submitted to the Town Clerk.

**Employee Personal Information** – An employee should never provide a caller or visitor with confidential information regarding employees, including home addresses and personal telephone numbers. An employee should take the person's name and telephone number and inform the caller/visitor that a message will be forwarded to the employee.

## **516 Visitors**

**Policy Statement** – It is the policy of the Town not to allow personal visitors during working hours, except for emergency situations. Visitors are allowed for brief visits during an employee's meal break as long as such visit does not interfere with Town operations or interrupt other employees who are still working.

## **517 Purchasing**

**Policy Statement** – The Town has established an official procurement policy that must be followed without exception. No employee shall make purchases for the Town, or use the Town's name to make purchases, unless so authorized by the Town Board and in adherence to the procedures set forth in the procurement policy.

## **518 Maintenance of Work Area**

**Policy Statement** – It is the policy of the Town that work areas must be kept safe, clean and orderly at all times.

**Employee Responsibility** – Employees are responsible for maintaining their work area in a safe and orderly fashion. As such, each employee should, at a minimum, do the following:

- Place coats, boots, umbrellas and other items of clothing in designated areas so that work areas are not unnecessarily cluttered;
- Consume food or beverages only in designated areas so that work areas are kept free of food and related litter;
- Report any existing or potential workplace hazards and safety violations to the supervisor;
- Abide by the smoking policy as specified in this Employee Handbook;
- Clean and store all tools and equipment and properly store any items, papers or confidential information in a manner prescribed by the supervisor.

**Supervisory Responsibility** – Supervisors are responsible for having their employees maintain their work areas according to the requirements of this policy. Each supervisor should:

- Make sure that aisles, floors and walls are free from debris and other unnecessary items;
- Monitor the facilities and equipment and issue maintenance requests where appropriate;
- Arrange for the removal of any items from the workplace that are not needed for the flow of business or the enhancement of employee comfort;
- Abide by and enforce the Town's smoking policy;
- Ensure the proper disposal of all trash and waste.

## **519 Personal Property**

**Policy Statement** – It is the policy of the Town to ask each employee to refrain from bringing unnecessary or inappropriate personal property to work. The Town recognizes that an employee may need to bring certain items to work. However, employees should take care to ensure that personal property brought to the workplace does not disrupt work or pose a safety risk to other employees.

**Personal Liability** – An employee is expected to exercise reasonable care to safeguard personal items brought to work. Except as otherwise provided by a collective bargaining agreement, the Town will not repair, replace, or reimburse an employee for the damage or loss of the employee's personal property. An employee bringing personal property to the workplace does so at one's own risk.

**Security Inspections** – Desks, lockers and other storage devices may be provided for the convenience of employees but remain the sole property of the Town. Accordingly, such storage devices, as well as any articles found within them, can be inspected by any agent or representative of the Town at any time, with or without notice. The inspection may be made in the presence of the employee. The Town is not responsible for loss or damage to personal property placed in such storage devices.

## **520 Town Property**

**Employee Responsibility** – An employee will be responsible for any item issued by the Town which is in the employee's possession and/or control, such as, but not limited to the following:

- Equipment, including Protective Equipment
- Identification Badges
- Keys
- Uniforms
- Books or other Reference Materials, including this Employee Handbook

**Return of Property** – Except as otherwise provided by a collective bargaining agreement, all Town property must be returned to the Town before the employee's last day of work.

## **521 Unauthorized Work**

**Policy Statement** – An employee may not perform work for any entity other than the Town during the employee's authorized work hours, or claim that Town work was done when such is not the case.

## **522 Outside Employment**

**Policy Statement** – It is the policy of the Town that an employee may engage in outside work as long as such outside work does not interfere with the employee's performance standards, pose an actual or potential conflict of interest, or compromise the interests of the Town.

**Guidelines** – The following guidelines have been established for an employee who engages in outside work.

- An employee will be judged by the same performance standards and will be subject to the Town's scheduling demands, regardless of any existing outside work requirements.
- If the Town determines that an employee's outside work interferes with the performance or the ability to meet the requirements of the Town as they are modified from time to time, the employee may be required to terminate the outside employment if the employee wishes to remain employed by the Town.
- No Town equipment, supplies, or other material may be used by an employee on other than Town work for monetary gain.
- Outside employment that does or may constitute a conflict of interest is prohibited. An employee may not receive any income or material gain from individuals outside of the Town for materials produced or services rendered while performing the employee's Town job.
- An employee may not work on outside employment during any period which the employee is regularly scheduled to work for and is paid by the Town.
- A Town employee who engages in outside work must notify the person for whom the work is being performed that such work is being done on the employee's own time and that the employee is not representing the Town while performing such work.

**Employee Responsibility** – A Town employee who wishes to engage in outside work is responsible for ensuring that the above guidelines are maintained. Questions should be directed to the supervisor.

**Bargaining Unit Employees** – In addition to the above guidelines, an employee who is a member of a collective bargaining unit may be subject to rules and/or guidelines regarding outside employment as set forth in the collective bargaining agreement or rules of the department to which the employee is assigned.

## **600 ABSENCE POLICIES**

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### **601 Attendance**

Except as otherwise provided by a collective bargaining agreement, the following procedure shall apply regarding absence from work:

**Tardiness** – An employee must be ready and able to work at the time the employee is scheduled to begin work. In the event an employee is unable to report to work at the scheduled time, the employee must notify the employee's supervisor prior to the employee's scheduled starting time. The reason for tardiness and the expected time of arrival must be indicated to the supervisor.

**Daily Notification** – In the event an employee is unable to report to work, the employee must notify the employee's supervisor each day of the absence and state the reason for the absence. In the event the absence was pre-authorized, this requirement will be waived.

**Scheduled Absences** – Requests for scheduled time off, such as the use of paid time-off (PTO) and vacation leave, must be approved by the supervisor in advance. All requests for time off are subject to approval by the employee's supervisor on a case-by-case basis. Refer to Section 802, Vacation Leave, and Section 803, Paid time-off, for further details.

**Unscheduled Absences** – An employee who is unable to report to work must personally contact the employee's supervisor prior to the employee's scheduled starting time. The employee must speak directly with the supervisor, indicating the reason for the absence and when the employee expects to return to work. Asking another person to call in on the employee's behalf is not permitted. Notification requirements may be waived in cases of emergency.

**Unexcused Absences** – Notification of an absence to an employee's supervisor does not automatically mean the absence is authorized. Any time off from work that is without approval of an employee's supervisor is considered an unexcused absence. An unexcused absence is without pay and may result in disciplinary action, up to and including termination.

**Early Departure** – In the event an employee must leave work during the workday, the employee must seek permission from the employee's supervisor prior to leaving.

**Leaving the Premises** – An employee must obtain prior approval from the employee's supervisor to leave an assigned worksite during working hours due to a non-work related reason. An employee who leaves an assigned worksite during the workday due to business reasons must notify the employee's supervisor in accordance with department policy.

**Documentation of Absences** – An employee may be required to provide appropriate documentation in justification of any absence. Documentation may include medical verification.

## **602 Jury Duty Leave**

**Jury Leave** - In the event a full-time or part-time employee is required to perform jury duty on a day the employee is scheduled to work, the employee will receive paid jury duty leave. Such leave will not be subtracted from any of the employee's leave credits. An employee is obligated to notify the Commissioner of Jurors that the Town is paying the employee's full pay during jury duty. If the employee receives a jury stipend from the courts, such amount must be reimbursed to the Town. An employee can collect and keep any mileage or parking expense reimbursement that may be issued by the court system for performing jury duty.

The Town shall pay a temporary or seasonal employee up to \$40 of the employee's wages for the first three days the employee serves jury duty if on those days the employee is scheduled to work for the Town. After the first three days, the employee may be eligible for a stipend issued by the court system if the employee continues to serve on jury duty.

**Notification of Jury Duty** – When an employee receives notice to report for jury duty, the employee must immediately submit a copy of the notice to the employee's supervisor.

**Return to Duty** – In the event the employee is released from jury duty on a given day and there are two or more hours remaining in the employee's scheduled workday, the employee must report to work. The employee will be allotted time to return home and prepare for work.

**Accrual of Benefits** – The Town will continue to provide health insurance benefits for an eligible employee during the jury leave. Vacation leave, paid time-off (PTO) and holiday benefits will continue to accrue during jury duty leave.

## **603 Military Leave and Military Leave of Absence**

**Military Leave (New York State Law)** – This section refers only to a paid leave for military service under New York State Law and does not affect an employee's entitlement to leave needed for military service under federal statute. The Town of Newcomb recognizes the importance of the Military Reserve and National Guard, and will permit any employee the use of military leave to perform ordered military duty or required training. The Town will grant such leave with pay for up to twenty-two workdays or thirty calendar days in a calendar year, whichever is greater. Such military leave beyond the twenty-two workdays or thirty calendar days in a calendar year will be unpaid, however accumulated vacation leave may, at the employee's option, be used at any time during the leave. In accordance with applicable New York State law, the employee may keep all pay received for military service.

**Military Leave of Absence (Federal Law)** – An unpaid leave of absence for a period of up to the federal statutory limits will be granted to an employee to serve in any of the Armed Forces of the United States. The employee's accumulated vacation leave may, at the employee's option, be used at any time during such leave of absence.

**Leave For Military Spouses (New York State Law)** – In accordance with NYS Labor Law §202-i, the Town will grant an unpaid leave of absence of up to ten days to an employee (who works an average of twenty hours per week) whose spouse is a member of the armed forces of the United States, National Guard, or reserves who has been deployed during a period of military conflict, to a combat theater or combat zone of operations. This leave shall only be used when the employee's spouse is on leave from such deployment. This does not preclude the employee's option to use available paid leave upon approval of the employee's supervisor.

## **604 Leave for Cancer Screening**

**Policy** –The Town of Newcomb complies with New York State Civil Service Law which entitles all Town employees to paid leave to undertake screening for breast cancer (under §159-b) and prostate cancer (under §159-c). This leave will not be charged against any available paid time-off (PTO), vacation, compensatory or other leave accruals. This does not preclude an employee's option to use other available paid leave for this same purpose.

**Allowance** – An employee will be allowed four hours of paid leave per year for the purpose of undergoing a screening procedure for breast cancer, and four hours of paid leave per year for the purpose of undergoing a screening procedure for prostate cancer (male employees only). Such paid leave will be accrued as of January 1 each year. If the employee does not exercise his/her rights to the leave, those hours are not carried forward to the next year. The allowed leave time may include the travel time to and from the appointment and any subsequent follow up consultation visits. In addition, the allowed leave may be staggered throughout the year until the maximum allowance has been reached.

**Scheduling** – An employee must receive prior approval from the employee's Department Head to take leave for this purpose. The request for leave should be submitted to the Department Head in writing a minimum of two days in advance. The Department Head will have total discretion in the approval of this leave, but will not unreasonably deny such request.

**Documentation Requirements** – If an employee applies for paid leave for a cancer screening procedure under this policy, documentation must be provided to the Department Head from the health care provider verifying that the absence from the workplace was for cancer screening. If an employee uses any other available leave for a cancer screening procedure, the provisions of the applicable leave policy (e.g. PTO, vacation, compensatory) will apply; there is no requirement in such a case to provide specific documentation regarding cancer screening.

## **605 Leave for Blood or Bone Marrow Donations**

**Policy** –The Town of Newcomb complies with New York State Labor Law §§202-a and 202-j which entitle Town employees time off from work to donate blood and/or to undergo a medical procedure to donate bone marrow. This leave of absence will not be charged against any available sick, vacation, personal, compensatory or other leave accruals. The leave allowed under this policy is unpaid, however, this does not preclude an employee's option to use available paid leave for these purposes.

**Blood Donation Allowance** – An employee will be allowed a leave of absence of up to three hours per year under this policy. Such leave will be accrued as of January 1 each year. If the employee does not exercise his/her rights to this leave, those hours are not carried forward to the next year. The allowed leave may include the travel time to and from the appointment. The Town may require the employee to provide proof of blood donation.

**Bone Marrow Donation Allowance** – An employee may take leave in order to donate bone marrow as well as to recover from the procedure and for resulting medical care. The employee’s physician will determine the amount of leave required by the employee. However, the leave need not exceed 24 work hours unless additional leave is agreed to by the Town. There is no limitation on how frequently an employee may take such leave. The Town may require the employee to provide proof of bone marrow donation.

**Scheduling** – An employee must receive prior approval from the employee’s Department Head to take leave for this purpose. The request for leave should be submitted to the Department Head in writing a minimum of two days in advance. The Department Head will have total discretion in the approval of this leave but will not unreasonably deny such request.

**606 Bereavement Leave**

**Eligibility** – In the event of a death of a full-time employee’s immediate family member, the employee may take a paid leave for up to three consecutive days from the employee’s regularly scheduled work. Such leave will not be subtracted from any of the employee’s leave credits. A part-time, temporary, or seasonal employee is not eligible for paid bereavement leave but may be allowed to take time-off without pay provided the employee has prior approval from the supervisor.

**Definition of Immediate Family** – For purpose of bereavement leave, “immediate family member” will mean the following:

|                 |                     |
|-----------------|---------------------|
| • Spouse        | • Child /Step-child |
| • Parent        | • Sibling           |
| • Mother-in-law | • Father-in-law     |
| • Grandparent   | • Grandchild        |

**Extended Bereavement Leave** – With authorization from the employee’s supervisor, an employee may use vacation leave credits and/or paid time-off (PTO) credits to extend a bereavement leave. The supervisor will have total discretion in the approval of an employee’s extended bereavement leave, based upon the needs of the department.

**Bargaining Unit Employees** – Bereavement Leave provisions for a bargaining unit employee are established in the applicable collective bargaining agreement.

## **607 Volunteer Firefighters / Emergency Responders**

Except as otherwise provided by a collective bargaining agreement, the following policy shall apply regarding those employees who are volunteer firefighters or emergency responders:

**Policy** – In approved situations, if an employee is called upon to perform volunteer duties as a firefighter or emergency responder on a day the employee is scheduled to work, the employee will receive paid leave to perform such duties. The employee may not leave the workplace until it has been authorized by the appropriate supervisor. The paid leave is limited to the extent of the employee's regular work schedule. Such leave will not be subtracted from any of the employee's leave credits. Time spent by the employee performing such duties, including driving to and from the scene, will not be included as time worked for purposes of computing overtime. The employee is required to return to the worksite upon completion of the emergency call, unless such call ends after the end of the employee's scheduled work shift.

**Members of Newcomb Volunteer Fire Department and Rescue Squad** – In approved situations, if an employee is called upon to perform volunteer duties as a member of the NVFD or Rescue Squad on a day the employee is regularly scheduled to work, the employee will receive their regular pay to perform such duties.

**Documentation Requirements** – The employee must account for all time spent responding to emergency calls on the employee's time sheet, including the time the employee left and returned to the worksite. The employee may be required to submit verification of the employee's attendance at such call.

**Responding to Calls During Paid Leave** – If the employee is on a paid leave from the Town (i.e. vacation, holiday, paid time-off (PTO), etc.) and the employee responds to a call, the employee will not receive additional compensation from the Town and the employee's appropriate leave time will still be charged.

## **608 Family and Medical Leave Policy**

**Policy Statement** – It is the policy of the Town of Newcomb to grant a full-time employee a maximum of twelve workweeks (defined by the employee's normal workweek) of unpaid leave in any twelve-month period for certain family and medical reasons. The twelve-month period is calculated as the twelve month period measured forward from the date of the employee's first leave usage.

**Granting of Leave of Absence** – The granting and duration of each leave of absence will be determined by the Town Board in conjunction with applicable federal and state laws, including Civil Service Law Sections 71, 72 and 73, as applicable, and the *Rules for the Classified Civil Service of Essex County*. If and when any employee meets the eligibility requirements under the *Family and Medical Leave Act*, the provisions of that Act will then take precedence over this policy.

**Types of Leave** – The following types of leaves of absence will be considered:

- **Sick Leave of Absence** – Employees who are unable to work because of a serious health condition or disability may be granted a sick leave of absence. This type of leave includes disabilities caused by pregnancy, childbirth, or other related medical conditions. The Town requires certification of an employee's need for sick leave, both before the leave begins and on a periodic basis thereafter, by the employee's health care provider.

In addition to leave provided under this policy, employees may be eligible for a leave of absence pursuant to Civil Service Law Section 71. Section 71 provides that **covered** employees shall be entitled to a leave of absence for at least one cumulative year (unless found to be permanently disabled) when disabled due to an occupational injury or disease as defined in the Workers' Compensation Law. This leave runs concurrently with the designated Family and Medical Leave. Employee should consult with their Department Head for further details regarding this provision.

- **Parental Leave of Absence** – Female employees, when not disabled by pregnancy or childbirth (see above), and male employees may be granted a parental leave of absence to care for a child upon birth or upon placement for adoption or foster care.
- **Family Care Leave of Absence** – Employees may be granted a family care leave of absence for the purpose of caring for a child, spouse or parent who has a serious health condition. The Town requires certification of the family member's serious health condition, both before the leave begins and on a periodic basis, by the family member's health care provider.

**Eligibility** – To be eligible, an employee must meet the following requirements:

- The employee must have completed at least one year of full-time, continuous service during the previous twelve months prior to the date leave commences.
- Spouses who both work for the Town of Newcomb are allowed a combined maximum of twelve workweeks of leave for the birth or care of a newborn child, adoption or foster

care of a child and to care for such newly placed child, or the serious health condition of a child, spouse or parent, during any twelve month period.

**Definitions** – For the purpose of this policy, the following definitions will apply:

- **Serious Health Condition** will mean and refer to an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or any subsequent treatment in connection with such inpatient care; or continuing treatment by a health care provider, including, but not limited to:
  - \* A period of incapacity of more than three consecutive calendar days and any subsequent treatment or period of incapacity that also involves continuing treatment by a health care provider;
  - \* A period of incapacity due to pregnancy or prenatal care;
  - \* A period of incapacity or treatment for such incapacity due to a chronic serious health condition;
  - \* A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or
  - \* A period of absence to receive multiple treatments, including any period of recovery, by a health care provider, or by a provider of health care services under orders of or on referral by a health care provider, for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
- **Health Care Provider** will mean and refer to a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or any other person defined in the FMLA regulations capable of providing health care services.
- **Family Member** will mean and refer to:
  - \* **Spouse** – means husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either: (1) was entered into in a State that recognizes such marriages; or (2) if entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.
  - \* **Parent** – biological parent or an individual who stands or stood in *loco parentis* to an employee when the employee was a child as defined directly below. This term does not include an employee's parents "in law".

- \* **Child** – biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in *loco parentis*, who is either under age eighteen, or age eighteen or older and "incapable of self-care because of a mental or physical disability". Persons who are "*in loco parentis*" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

**Notification Requirements** – If the need for leave is foreseeable, the employee must give notice to the Department Head at least thirty calendar days prior to the commencement date of the unpaid leave. This notice may be written or verbal, however, additional medical certification may be required for final approval of the absence as qualifying under the FMLA. The employee and Department Head must complete the Leave of Absence Request Form and forward the completed form to the Clerk to Supervisor for review. The failure of an employee to give thirty days' notice of foreseeable leave with no reasonable excuse for the delay may result in the delay of the employee taking the leave until thirty days from the date of notice. When the need for leave is unforeseeable, notification must be provided as soon as possible and practical.

**Status Reports** – The employee must periodically update the Department Head as to the employee's status and intent to return to work.

**Medical Certification** – The employee may be required to produce a medical certification issued by a health care provider which supports the need for a leave under this policy. When required, the employee must provide a copy before the leave begins, or if the leave was unforeseeable, no later than fifteen calendar days from the date the certification was requested. Failure to submit medical certification may jeopardize the employee's eligibility for an unpaid leave of absence and/or the ability to return to work. The medical certification must include:

- The date the medical condition began;
- The probable duration of the medical condition;
- Pertinent medical facts; and,
- An assertion that the employee is unable to perform the employee's essential job functions or that the employee is needed to care for a family member for a specified period of time.

*The Town of Newcomb reserves the right to request a second opinion by another health care provider. The Town will pay for the second opinion. In the event a conflict occurs between the first and second opinion, the Town may, again at its own expense, obtain a third opinion from a health care provider approved jointly by the Town and the employee. This third opinion will be final and binding.*

**Leave for the Birth, Adoption or Foster Care Placement of a Child** – Leave for the birth of a child or the placement of a child for adoption or foster care must conclude within twelve months from the date of the birth or placement.

**Certification for Adoption/Foster Care** – An employee must produce proper certification from the appropriate agency for an unpaid leave for the adoption or foster care of a child.

**Employment Restrictions During Leave of Absence** – While on an approved leave, the employee may not be employed by another employer during the same hours that the employee was normally scheduled to work for the Town of Newcomb.

**Benefits During a Leave of Absence** – For the purpose of this policy, the following will apply:

- **Use of Accrued Paid Leave Credits** – An employee taking leave for the **birth, adoption or foster placement of a child or to care for a spouse, child or parent with a serious health condition** must first use all vacation leave credits which will be included in the maximum twelve weeks of leave. The substitution of paid leave for unpaid leave for these types of leave does not extend the twelve-week period.

For leaves taken due to the **employee's own serious health condition**, the employee must first use all sick leave and vacation leave credits, which will be included in the maximum twelve weeks of leave. However, in the event that the paid leave credits available are greater than the maximum twelve-week period, an employee may use paid leave credits to extend the leave of absence beyond the twelve-week period, **up to a maximum of one year**. If, after the completion of the one-year leave of absence, the employee is medically unable to return to work (as determined by a health care provider) and the employee has leave credits remaining, the Town Board may authorize an extension of the employee's leave of absence until such benefits are exhausted. However, **job reinstatement** beyond the one-year leave of absence is **not automatic** and will be dependent upon job availability, in accordance with Civil Service Law Sections 71, 72 and 73, as applicable, and the *Rules for the Classified Civil Service of Essex County*.

- **Accrual of Paid Leave Credits** – An employee will continue to accrue vacation and sick leave and receive holiday pay during the portion of the leave that is paid. **Paid leave is defined as leave during which the employee continues to use accumulated paid vacation and sick leave.** After all such paid leave is exhausted, the remaining leave of absence is unpaid. An employee will not earn paid vacation or sick leave or receive holiday pay for any holidays that may occur during an unpaid leave of absence.
- **Medical Insurance** – During the period of authorized leave under this policy, up to a maximum of twelve weeks, an employee's eligibility status for medical insurance coverage will not change. All employee contributions (if any) must be paid on a timely basis in order to maintain the continuous coverage of benefits. Contributions will be at the same level as if the employee was working. Coverage will cease if payments are not made within a thirty-calendar day grace period of the due date. Premium payments or policy coverage are subject to change. In the event the employee fails to return to work after the maximum twelve week period of leave under this policy has been exhausted, the employee may continue coverage with responsibility for payment of the full premium amount under COBRA provisions (see Section 807.) In addition, the Town may recover the premium that it paid for maintaining the coverage during any period of the unpaid leave except for the following circumstances:

- \* The continuation, recurrence, or onset of a serious health condition of the employee or the employee's eligible family member with proper medical certification; or,
- \* Circumstances beyond the employee's control, such as: parent chooses to stay home with a newborn child who has a serious health condition; employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's work-site; the employee is laid off while on leave.

**Return to Work** – The following conditions for returning to work will apply:

- **Job Restoration** – At the conclusion of the leave of absence, (except for leaves beyond a one-year period) the employee, provided that the employee returns to work immediately following such leave, will be restored to the position the employee held when the leave began, or an equivalent position with equivalent benefits, pay and working conditions. For an authorized leave of absence beyond the one-year period, job restoration will be dependent upon job availability, in accordance with Civil Service Law Sections 71, 72 and 73, as applicable, and the *Rules for the Classified Civil Service of Essex County*.
- **Medical Statement** – Before resuming employment, an employee must submit a statement from the employee's health care provider indicating that the employee is able to return to work either with or without restrictions. The Town reserves the right to have the employee examined by a physician selected and paid for by the Town to determine the employee's fitness to return to work either with or without restrictions. Failure to return to work when required may be considered a voluntary termination.
- **Early Return** – An employee who intends to return to work earlier than anticipated must notify the Department Head at least five business days prior to the date the employee is able to return. The Department Head shall in turn notify the Town Supervisor.
- **Extension of Unpaid Leave of Absence** – An employee who wants an extension of the leave previously requested must notify the employee's Department Head at least two business days from the date the change occurred which necessitates the change in leave time. The Town Board reserves the right to approve all leave extensions.

**Statement of Compliance** – The Town of Newcomb complies with the provisions of the Family and Medical Leave Act (FMLA). **The Town of Newcomb does not regularly employ fifty or more employees. Under that circumstance, Town employees are not eligible for leave under the FMLA.** If at some point the Town of Newcomb should employ fifty or more employees, eligible employees will be afforded leave in compliance with FMLA.

## **609 Unpaid Leave of Absence**

**Policy Statement** – Subject to the approval of the Town Supervisor, unpaid leaves of absence other than under the Family and Medical Leave Policy may be available to an employee for personal reasons including, but not limited to, family responsibilities and education.

**Request for Unpaid Leave** – The employee must submit a request and the reasons for the leave, in writing, to the Town Supervisor at least thirty calendar days prior to planned commencement of the requested leave. Shorter notification may be permitted in cases of emergency. The Town Supervisor has sole discretion in approving such leave.

**Conditions of Leave** – The Town Supervisor will specify the duration of an unpaid leave of absence and may impose such other terms, conditions and restrictions on the employee as deemed appropriate. The maximum duration of an unpaid leave of absence may not exceed four calendar weeks.

**Continuation of Benefits** – An employee on an approved unpaid leave of absence may continue to be eligible for medical insurance coverage in accordance with COBRA.

Disability benefits and accruals for leave benefits shall be suspended.

**Return to Work** – An employee who fails to return from an unpaid leave of absence at the scheduled expiration date without giving proper notice or receiving proper authorization shall be conclusively presumed to have voluntarily resigned from employment.

**Change in Status** – If the reason for the unpaid leave of absence changes, the employee must return to work.

## **700 COMPENSATION**

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### **701 Wage and Salary**

**Rate of Pay** – An employee’s rate of pay will be established by the Town Board. Pay rates for youth program employees will take into consideration recommendations of the Youth Commission.

**Merit Increases** – An employee may receive a pay increase based upon the employee’s past performance. The merit increase will be granted at the discretion of the Town Board.

**Bargaining Unit Employees** – A bargaining unit employee will be paid in accordance with the applicable collective bargaining agreement.

### **702 Overtime and Compensatory Time**

**Authorization** – A supervisor may require an employee to work additional hours beyond the employee’s normal workday and workweek. An employee must receive prior approval from the employee’s supervisor before working additional hours. An employee is not entitled to overtime pay for additional hours worked without proper authorization.

**Credit for Paid Leave** – All paid leave (PTO, vacation leave, holidays, etc.) will be included as time worked for the purpose of computing overtime.

**FLSA Non-Covered and Exempt Employees** – In accordance with the Fair Labor Standards Act, FLSA non-covered and exempt employees will not be paid for overtime nor receive “compensatory time” for any hours worked in excess of the employee’s normal workday or workweek.

**FLSA Non-Exempt Employees** – In accordance with the Fair Labor Standards Act, an FLSA non-exempt employee will be paid one and one-half times the employee’s regular hourly rate of pay for all authorized time worked over forty hours in a given workweek.

**Compensatory Time** – With pre-authorization from the supervisor, a non-exempt employee will have the option of receiving “compensatory time” in lieu of paid overtime. When a non-exempt employee chooses to receive compensatory time, the employee will be credited with the equivalent of one and one-half hours for all authorized time worked over forty hours in a given workweek. An employee may accumulate up to eighty hours in compensatory time credits. In the event an employee accrues more than eighty hours compensatory time credits, the employee must either use the excess compensatory leave credits within the pay-period in which it is earned or take paid overtime. An employee must use all compensatory leave credits within the calendar year in which they are earned or receive cash payment at the end of the calendar year at the employee’s then current rate of pay.

**Termination from Employment** – An employee whose employment with the Town is terminated will receive cash payment for unused compensatory credits to which the employee is properly entitled at the employee's then current rate of pay.

**Bargaining Unit Employees** – An employee who is a member of a collective bargaining unit shall receive overtime compensation in accordance with the overtime provision of the applicable collective bargaining agreement and is also subject to the provisions of the FLSA.

### **703 Pay Period and Check Distribution**

**Payroll Period** – Normally, employees are paid on a bi-weekly basis. An employee's paycheck will be based on the amount earned during the preceding payroll period. Certain employees may be paid on a different schedule as established by the Town Board.

**Payday** – Under normal circumstances, paychecks will be issued on a Thursday. In the event the payday is a designated holiday, paychecks will be distributed on the previous workday.

**Direct Deposit** – The Town provides a direct deposit option for employees. If elected, the paycheck will be deposited directly into the employee's account at the designated financial institution. The employee must submit a signed, written authorization for direct deposit to the Clerk to Supervisor.

**Authorized Check Release** – Paychecks will not be released to anyone other than the employee unless the employee has submitted a signed, written authorization with the Clerk to Supervisor.

### **704 Payroll Deductions**

**Statutory Deductions** – The required portion of an employee's pay for federal and state taxes, and any other deduction required by law, will be deducted from the employee's paycheck. Such deductions will be noted on the paycheck.

**Voluntary Deductions** – Payroll deductions provided through the Town's payroll system will be made from an employee's paycheck when authorized by the employee. Such deductions will be noted on the paycheck.

## **800 EMPLOYEE BENEFITS**

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### **801 Holidays**

**Designated Holidays** – The Town of Newcomb will observe the following holidays:

|  |                               |
|--|-------------------------------|
| 1. New Year's Day                        | 8. Columbus Day               |
| 2. Martin Luther King Day                | 9. Veterans' Day              |
| 3. Good Friday                           | 10. Thanksgiving Day          |
| 4. Memorial Day                          | 11. Friday after Thanksgiving |
| 5. * Juneteenth (June 19 <sup>th</sup> ) | 12. Christmas Day             |
| 6. Independence Day                      | 13. *2 Floating Holidays      |
| 7. Labor Day                             |                               |

\*A full-time employee is credited with two (2) floating holidays each January 1st which must be used during that calendar year. A newly hired full-time employee A floating holiday can be used at each employee's discretion upon 24 hours' notice and upon approval of the employee's supervisor. New employees will not be eligible for any floating holidays during their first calendar year.

**Eligibility** – A full-time employee is eligible for holiday pay at the employee's regular rate of pay. A part-time, temporary, or seasonal employee is not eligible for holiday pay.

**Holiday Observance** – In the event a designated holiday occurs on a Saturday, the holiday will be observed on the preceding Friday. In the event a designated holiday occurs on a Sunday, the holiday will be observed on the following Monday.

**Holiday Pay Requirement** – Unless otherwise authorized, an FLSA non-exempt employee must work the employee's scheduled workday before and the employee's scheduled workday after a designated holiday in order to receive holiday pay. A vacation day, personal day or legal sick day shall be considered the same as a workday.

**Assigned to Work on a Holiday** – A full-time FLSA non-exempt employee who is required to work on a designated holiday will receive holiday pay plus wages at one and one-half times the employee's regular rate of pay. A part-time, temporary, or seasonal employee who works on a designated holiday will be paid at the employee's regular rate of pay.

**Bargaining Unit Employees** – Holidays provisions for a bargaining unit employee are set forth in the applicable collective bargaining agreement.

\*Amended 11/18/2021

## **802 Vacation Leave**

**Eligibility** – A full-time employee is eligible for paid vacation leave in accordance with this policy. A part-time, temporary, or seasonal employee is not eligible for paid vacation leave but may be allowed to take time-off without pay provided the employee has prior approval from the supervisor.

**Allowance** – A full-time employee will be credited with paid vacation leave in accordance with the vacation schedule below. Vacation leave is based on the average number of hours an employee is normally scheduled to work each week. An employee may take vacation leave only after it has been credited. Vacation leave is credited on the employee's anniversary date of employment. The [\\*Clerk to the Supervisor](#) will record time earned and time taken for eligible employees at each bi-weekly payroll period and summarize each individual employee at year end and communicate by official letter the balance to each employee.

| <b>After Completion Of:</b> | <b>Vacation Leave</b> | <b>After Completion Of:</b> | <b>Vacation Leave</b> |
|-----------------------------|-----------------------|-----------------------------|-----------------------|
| 6 months of service         | 1 week                | 9 years of service          | 3 weeks               |
| 1 year of service           | 1 week                | 10 years of service         | 3 weeks               |
| 2 years of service          | 2 weeks               | 11 years of service         | 4 weeks               |
| 3 years of service          | 2 weeks               | 12 years of service         | 4 weeks               |
| 4 years of service          | 2 weeks               | 13 years of service         | 4 weeks               |
| 5 years of service          | 2 weeks               | 14 years of service         | 4 weeks               |
| 6 years of service          | 3 weeks               | 15 years of service         | 4 weeks               |
| 7 years of service          | 3 weeks               | 16 or more years of service | 5 weeks               |
| 8 years of service          | 3 weeks               |                             |                       |

**Continuous Service** – The service periods shown above refer to “Continuous Service”, and shall mean uninterrupted service. An authorized leave of absence without pay, or a resignation followed by reinstatement within one year following such resignation, shall not constitute an interruption of continuous service. However, the duration of the absence from work without pay will be excluded from the computation of vacation period for that year.

**Scheduling** – An employee must receive prior approval from the employee's supervisor to take vacation leave. Vacation leave credits may not be used in increments of less than 1/2 hour. The supervisor will have total discretion in the approval of vacation leave.

**Accumulation** – [\\*Vacation leave is non-cumulative and must be used in the year in which it is earned except that an allowance is made for the carry over of 5 days \(40 hours\) of vacation past the employee's seniority date with the approval of the Town Supervisor. An employee may buy back a maximum of 5 vacation days per calendar year.\\*](#)

**Holiday During Scheduled Vacation** – In the event a designated holiday occurs on an employee's normal workday and the employee is on paid vacation, the employee will receive holiday pay for the day and the employee's vacation leave credits will not be charged for that day.

[\\*Amended 11/18/2021](#)

**Separation of Employment** – An employee who resigns, retires or is laid off will receive cash payment for unused vacation leave to which the employee is properly entitled at the employee's then current rate of pay. To be eligible to receive this payment, an employee who is to resign or retire must give written notice at least two weeks in advance of the last day of employment. In the event an employee leaves employment due to disciplinary action, the employee will not receive a settlement for unused vacation leave. In cases of death of an employee, the Town will pay an employee's designated beneficiary for any unused vacation leave.

**Bargaining Unit Employees** – Vacation Leave provisions for a bargaining unit employee are set forth in the applicable collective bargaining agreement.

### **803 Paid Time-Off**

**Eligibility** – A full-time employee is eligible for paid time-off (PTO) in accordance with this policy. A part-time, temporary, or seasonal employee is not eligible for PTO.

**Allowance** – An employee will be credited with ten hours of PTO on the first day of each month, subject to a maximum accumulation of 2000 hours of PTO. Up to forty (40) hours of this leave may be used for personal leave per year. An employee will be credited with PTO credits while on a paid leave of absence, but not while on an unpaid leave of absence. The Town Supervisor will record time earned and time taken for eligible employees at each bi-weekly payroll period and summarize each individual employee at year end and communicate by official letter the balance to each employee.

**Proper Use of PTO** – PTO is provided primarily to protect an employee against financial hardship during an illness or injury. The Town strongly recommends each employee manage the use of PTO with consideration of that purpose in mind. An employee may take PTO only after it has been credited. PTO may not be used in increments of less than 1/2 hour.

**Scheduling of Paid Time-Off** – The supervisor will have total discretion in the approval of PTO, including the amount of PTO used within a certain time period, or consecutive days of PTO. An employee must request PTO at least 48 hours in advance and receive prior approval from the employee's supervisor before taking PTO. This requirement may be waived in the event of an emergency, death in the family, or in cases of illness or injury that interfere with the employee's ability to perform the employee's job duties (see below).

**Notification of PTO Use for Illness or Injury** – In the event an employee must take PTO due to illness or injury, the employee must notify the supervisor prior to the employee's scheduled reporting time. The notification must be made personally to the supervisor, unless the supervisor authorizes the use of an answering device for this purpose. Unless an extended absence has been authorized, the employee must notify the employee's supervisor each day of the absence. These procedures must be followed to receive payment for the absence.

**Medical Verification** – The Town may require medical verification of an employee's absence due to illness or injury if the Town perceives the employee is abusing this benefit (such as an excess amount or a pattern of such use), or when an employee is absent for more than three consecutive workdays due to an illness or injury. If an employee is on an authorized leave of absence, the provisions of the Family and Medical Leave Policy in this Employee Handbook shall apply.

**Abuse of PTO** – An employee who, after investigation, is found to have abused the use of PTO for illness or injury or falsifies any required supporting documentation, will be subject to disciplinary action.

**PTO Donation** – An employee may donate up to a maximum of forty hours of PTO time to another employee of their choosing during a calendar year.

**Limitations** – The Town Board reserves the right to limit or deny the use of PTO or to require medical verification of the need for PTO as sick leave if, in the opinion of the Town Board, an employee is abusing this benefit, particularly in an attempt to “cash in” PTO prior to separation of employment in a manner that circumvents the reimbursement provisions set forth in the following paragraph.

**Separation of Employment** – An employee whose employment with the Town is terminated due to disciplinary discharge will not receive cash payment for any unused PTO. An employee who has at least ten consecutive years of service with the Town and is leaving employment will be reimbursed for accumulated PTO according to the following formula: (number of hours accumulated) times (current rate of pay when leaving) divided by (four). In order to be eligible for this benefit, the employee must notify the Town in writing no less than thirty days prior to the date of separation. If the separation is due to a qualifying disability (as determined by the Town Board), or for other approved reasons at the sole discretion of the Town Board, the thirty day notice period may be waived. In the event of the death of an employee, this benefit shall be paid to the employee's beneficiary.

**Bargaining Unit Employees** – Paid time-off provisions for a bargaining unit employee are set forth in the applicable collective bargaining agreement.

## **804 Disclosure of Insurance Benefits**

**Summary** – The following is a brief description of the insurance benefits currently offered by the Town to eligible employees. Eligibility for benefits is dependent upon a variety of factors, including employment classification and length of service. The description of the benefits provided is only an overview. The plan documents or specific government regulation provide a full description of the specific benefit.

**Plan Administrator** – The Clerk to Supervisor serves as the Administrator of the Town's benefits plans. The Administrator is responsible for all communications and disclosures concerning Town benefits and is available to answer questions concerning the benefit plans. A description of each of the plans may be obtained from the Clerk to Supervisor.

**Plan Documents** – Benefits are administered according to applicable government regulation, benefit plan documents, insurance carrier master policy, or Town policy. Should there be a discrepancy between the information presented in this Employee Handbook and the benefit plan document, the Town Board has the discretionary authority to determine eligibility for benefits and to interpret the plan's terms. The Town Board is responsible for compliance with all applicable laws and regulations. The Town Board may, at its discretion, change carriers and/or offer alternative insurance plans for non-bargaining unit employees. Changes in carriers and/or plans for bargaining unit employees shall be in accordance with collective bargaining negotiations and/or procedures.

**Changes in Benefits** – Any benefit offered by the Town to non-bargaining unit employees or Elected Officials is subject to change or discontinuance by resolution of the Town Board. Changes in benefits for bargaining unit employees shall be in accordance with collective bargaining negotiations and/or procedures.

**Waiver of Benefits** – An employee who is eligible to participate in any of the available insurance plans but who elects not to participate must sign an appropriate waiver of enrollment form.

**Enrollment Information** – The Clerk to Supervisor will provide the employee with the enrollment forms and assist with the administrative and operational aspects of the various insurance plans. Enrollment in a benefit plan is not automatic. Employees must complete the appropriate enrollment forms and applicable payroll deduction authorizations in order to receive benefits.

**Changes in Status** – Employees whose status changes from full-time to part-time are notified of the changes to their Town benefits. This notification contains all legally mandated information regarding applicable benefits, including COBRA health insurance continuation. An employee must immediately notify the Clerk to Supervisor in the event that the employee has a change in marital or family status that may affect coverage, such as marriage, divorce, legal separation, death of a spouse or dependent, acquiring or losing a dependent, changes in address.

**Beneficiary** – Under some of the Town's benefit plans, each employee must designate a beneficiary for the employee's death benefits. This designation must be made in writing and on the form provided by the plan Administrator.

## **805 Medical / Dental / Vision Insurance**

**Eligibility** – The Town currently provides medical / dental / vision insurance coverage to each full-time employee and Elected Official and their eligible family members. A part-time, temporary, or seasonal employee is not eligible for insurance coverage.

**When Coverage Begins** – Coverage will begin on the employee's first day of employment or for Elected Officials, the first day of office, provided all eligibility requirements of the insurance plan are met.

**When Coverage Ends** – Coverage ends on the last day of the month in which the employee separates from employment or the Elected Official ends elected service. Coverage may continue for such eligible employees and Elected Officials in accordance with COBRA regulations. Coverage will continue for eligible retirees in accordance with Town policy and plan documents.

Upon the death of a full-time employee who has ten consecutive years of service, the Town will pay for medical insurance coverage for the surviving spouse and dependents for a period of six months, except if the spouse is eligible for Medicare or is covered under another medical insurance plan. Coverage after that six month period will be in accordance with the provisions of COBRA (see Section 807).

**Premium Payment (Full-Time Employees)** – The Town will pay the full premium for individual or family insurance coverage, as the case may be, for each eligible full-time employee who was hired prior to January 1, 2005. The Town will pay 90% of the premium for individual or family insurance coverage, as the case may be, for those eligible full-time employees hired on or after January 1, 2005. The Town will pay 85% of the premium for individual or family insurance coverage, as the case may be, for those eligible full-time employees hired on or after January 1, 2017.

\*If a husband and wife are both full time employees of the Town of Newcomb and eligible for medical insurance benefits, the Town of Newcomb will pay premiums for either (1) one family policy or (2) two individual health insurance plans as the case may be. In the event either the husband or wife retires from the Town of Newcomb, the same rules shall apply.

In case of the death of the policy holder and in the event a husband and wife are both full-time Town of Newcomb employees or are retired employees of the Town of Newcomb and one has dropped health insurance coverage and opts to be covered under the other's family health coverage, the Town of Newcomb will automatically and immediately grant coverage to the surviving spouse and dependents.

**Premium Payment (Elected Officials)** – The Town will pay the full premium for individual or family insurance coverage, as the case may be, for the Town Supervisor and Highway Superintendent. The Town will pay 50% of the premium for individual or family insurance coverage, as the case may be, for any other Elected Official who chooses to participate in the Town's medical insurance plan.

**Deductible / Co-Pay Reimbursements** – For eligible employees who were hired prior to January 1, 2016, the Town will provide deductibles and co-pay reimbursement up to a total of \$1,500 per calendar year per insured individual. For example, a family of four will be eligible for up to \$6,000 in benefit per calendar year and a husband/wife will be eligible for up to \$3,000 in benefit per calendar year.

**Changes in Premium Contributions** – The amount of the insurance premium an employee or Elected Official is required to contribute is subject to change by resolution of the Town Board. The Town Board will provide a two-month written notice of such change.

**Bargaining Unit Employees** – Medical / Dental / Vision Insurance provisions for a bargaining unit employee are set forth in the applicable collective bargaining agreement.

\*Amended 11/18/2021

## **806 Medical Insurance for Retirees**

**Coverage** – The Town currently provides medical / dental insurance coverage to an eligible full-time employee, Town Supervisor, or Highway Superintendent who retires from the Town. Coverage is also currently available for eligible dependents (includes spouse) if they were covered under the Town’s insurance plans at the employee’s date of retirement. In the event the retiree predeceases the dependents the Town will pay for medical insurance coverage for the surviving spouse and dependents for a period of six months, except if the spouse is eligible for Medicare or is covered under another medical insurance plan. Thereafter, the dependents may continue medical insurance coverage provided they pay the full cost of the premium. Coverage of a dependent at the time of divorce or legal separation is in accordance with plan documents and COBRA requirements.

**Retiree Continuation of Health Insurance Coverage and Premiums Payments** – Upon retirement, the Town of Newcomb will continue to pay for an eligible employee and their eligible family member’s major medical health plan provided that eligible retiree has at least ten (10) years full time service with the Town of Newcomb immediately preceding his/her retirement date. Eligible family members will be limited to a dependent spouse and/or dependent children. [\\*Retirement is defined as separation from full-time employment and receiving retirement benefits from the N.Y.S. Employees Retirement System.](#)

The premium amount paid by the Town toward a major medical health plan for eligible retired employees will be established pursuant to Section 805 “Premium Payment (Full Time Employees).

Retirees and spouses covered under the Town’s major medical insurance plan will also be eligible for coverage under the Davis Vision Eye Care Plan, and such premium will be paid for by the Town. The Town will also pay up to [\\*\\$1,500.00](#) annually for dental reimbursement.

Upon retirement, the Town of Newcomb will provide a certificate of coverage describing the retiree’s major medical health plan continuation privilege and the Town of Newcomb’s contribution rate paid to the retiree’s plan premium.

**Changes in Premium Contributions** – The amount of the insurance premium a retiree or retiree’s spouse is required to contribute is subject to change by resolution of the Town Board. The Town Board will provide a two-month written notice of such change.

**Medicare Part B Reimbursement** – The Town will reimburse eligible retirees and spouse the cost of the Medicare Part B premium; unless covered by another plan. Such reimbursement will cease upon the death of the retiree. The Town Board may, at its discretion and in accordance with plan documents, modify or eliminate this reimbursement for any retiree or retiree’s spouse.

**Bargaining Unit Employees** – [Medical Insurance for Retirees](#) provisions for a bargaining unit employee are set forth in the applicable collective bargaining agreement.

## **807 Continuation of Health Insurance Benefits (COBRA)**

**Summary** – The federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) offers “qualified beneficiaries” the right to continue existing health insurance coverage, completely at their own expense, under certain qualifying conditions. **All required premiums and administrative fees must be paid in a timely manner in order for coverage to continue.**

**NYS Continuation Coverage** – For purposes of this policy, references to COBRA will be considered to incorporate the requirements for “Continuation Coverage” set forth in NYS Insurance Law, which provides enhancements over and above the provisions of COBRA.

**Eligibility** – An individual is a “qualified beneficiary” if the individual is covered under a group health plan on the day before a qualifying event as either a covered employee or Elected Official, the spouse of a covered employee or Elected Official, or a dependent child of a covered employee or Elected Official. A child who is either born to or who is placed for adoption with the covered employee or Elected Official during a period of COBRA coverage is also a “qualified beneficiary” entitled to COBRA coverage.

**Period of Coverage** – COBRA coverage is in effect for a period of **up to thirty-six months**, following any qualifying event. The COBRA requirements do not put any limit on the number of times a qualified beneficiary may be entitled to COBRA continuation coverage.

**Qualifying Events** – If a qualified beneficiary loses coverage under a group health plan as a result of a “qualifying event,” the qualified beneficiary is entitled by COBRA to the continuation of group health insurance coverage at the qualified beneficiary’s own expense. Any of the following circumstances are considered to be qualifying events:

- Termination of the covered employee’s (or Elected Official’s) employment for any reason except gross misconduct, or the covered employee’s loss of eligibility to participate due to reduced work hours.
- When a covered employee is on a leave of absence due to military service obligations.
- Death of a covered employee or Elected Official.
- Divorce or legal separation from a covered employee or Elected Official.
- A covered dependent ceases to be a “dependent child” under the health insurance plan.
- A covered dependent child’s loss of eligibility to participate in the insurance plan due to the covered employee or Elected Official becoming covered by Medicare as a result of total disability or choosing Medicare in place of the insurance plan at age sixty-five.

**Change in Beneficiary Status** – An employee or Elected Official must notify the Clerk to Supervisor within sixty calendar days of a legal separation or divorce or when a dependent is no longer eligible for insurance due to the age limitations or educational status requirements established by the insurance plan. The Town will not be responsible for any loss of coverage resulting from failure by the employee or Elected Official to give notification of such an event.

**Enrollment Information** – The Clerk to Supervisor will provide the employee or Elected Official with the enrollment forms and assist with the administrative and operational aspects of COBRA. **Enrollment is not automatic. The employee or Elected Official must complete the necessary enrollment forms and return all COBRA forms to the Clerk to Supervisor within the time indicated.** If the required forms or premium payments are not received at the time specified, medical insurance coverage will cease.

### **808 Workers' Compensation Benefits**

**Coverage** – The Town will make available Workers' Compensation benefits, including payment of medical costs and replacement of lost wages up to the regulated maximum, to each eligible employee who suffers an accidental injury arising out of and in the course of employment, as determined by the Workers' Compensation Board. Eligibility for coverage is determined by applicable Workers' Compensation regulations.

**When Coverage Begins** – Coverage will begin on the employee's first day of employment, provided the employee meets all eligibility requirements.

**Premium Payment** – The Town will pay the full premium for Workers' Compensation coverage for each eligible employee.

**Reporting of Injury** – The employee must report any accidental injury arising out of and in the course of employment to the supervisor immediately after the occurrence of the injury. The supervisor will notify the Clerk to Supervisor who will complete and submit the required forms.

**Use of PTO Credits** – An employee may draw from the employee's PTO credits in conjunction with Workers' Compensation payments to equal, but not exceed, the employee's regular daily rate of pay.

**Medical Insurance Coverage** – The Town will continue medical insurance coverage for the employee in accordance with the provisions of the Family and Medical Leave Policy in this Employee Handbook.

### **809 Unemployment Benefits**

**Coverage** – The Town will make available unemployment benefits to each employee ruled eligible for benefits under New York State labor law.

### **810 Social Security**

**Summary** – Social Security benefits are available for retirement, survivor's benefits, and medical costs under qualifying conditions, as determined by the Federal Social Security Administration Office. Employee contributions to Social Security (FICA) are matched by the Town.

## **811 The New York State Employees' Retirement System**

**Summary** – The Town will make available the New York State Employees' Retirement System pension plan to each eligible employee and Elected Official. An employee or Elected Official is eligible for service retirement benefits after five years of creditable public sector service. In the event an employee or Elected Official leaves after five years of service but prior to retirement age, such employee Elected Official may receive a benefit at retirement age related to those years as a public sector employee or Elected Official.

**Mandatory Membership** – A full-time employee who began employment with the State of New York or with a participating employer, on or after July 27, 1976, must join the Retirement System. An employee who is appointed to a permanent, full-time position on a probationary basis must join the Retirement System on the effective date of the probationary appointment. Employment is considered full-time unless:

- The employee works less than thirty hours per week, or less than the standard number of hours for full-time employment as established by the employer for this position; or
- The annual compensation for the position is less than the State's minimum wage multiplied by 2,000 hours; or
- Duration of employment is for less than one year or employment is on a less than a 12 month per year basis; or
- The position is either provisional or temporary under Civil Service Law.

**Optional Membership** – An employee or Elected Official who is not mandated to join may join the Retirement System. Such employee or Elected Official will be informed, in writing, that the employee or Elected Official may join the Retirement System and will acknowledge receipt of such notice by signing a copy thereof and returning it to the Clerk to Supervisor. If the employee or Elected Official elects to join the Retirement System, the employee or Elected Official must complete the application form and return it to the Clerk to Supervisor.

**Waiver of Enrollment** – An employee who is not mandated to join the Retirement System, and who chooses not to join, must complete a waiver of enrollment form.

## **900 COMPLIANCE POLICIES**

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### **901 *Equal Employment Opportunity***

**Policy Statement** – The Town of Newcomb is an Equal Opportunity Employer. The Town does not unlawfully discriminate on the basis of race, religion, color, sex, age, national origin, citizenship, disability, marital status, pregnancy, application to or present membership in the uniformed services, veteran status, arrest or conviction record, genetic predisposition or carrier status, sexual orientation, domestic violence victim status, or any other protected class or status. Likewise, the Town prohibits employees, Elected Officials, vendors, suppliers, visitors, customers, and any other non-employee from discriminating against Town employees based on these protected groups. Discrimination based on any of the above is strictly prohibited. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, compensation, promotion, transfer, training, leave of absence, and termination.

**Notification of Policy Violations** – An employee should immediately report any perceived violation of this policy to the employee’s supervisor. In the event the employee is unable to discuss this matter with the supervisor, the complaint should be reported in writing to the Town Supervisor or any member of the Town Board. All complaints of discrimination will be investigated discreetly and promptly. This procedure is not intended to restrict an individual’s rights to make a complaint to a federal or state agency. An employee who reports discrimination will not suffer adverse employment consequences as a result of making the complaint.

**Prohibition Against Retaliation** – Retaliation against any employee who brings a written or verbal complaint of discrimination or who assists or participates in the investigation of such a complaint is strictly prohibited. The Town will not tolerate or permit adverse treatment of employees because they report discrimination or provide information related to such complaints, or who otherwise oppose an unlawful employment practice. Any employee who participates in the procedure may do so without fear of retaliation. Violations of this policy may result in disciplinary action up to and including termination of employment.

**Application of Policy** – This policy is for Town use only and does not apply in any criminal or civil proceeding. This policy shall not be construed as a creation of higher legal standard of safety or care in an evidential sense with respect to third party claims. Violations of this policy will only form the basis for Town administrative action. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

## **902    *The Americans with Disabilities Act***

**Policy Statement** – It is the policy of the Town of Newcomb to comply fully with the provisions and spirit of the Americans with Disabilities Act and ensure equal employment opportunity for all qualified persons with disabilities. All employment practices, such as recruitment, hiring, promotion, demotion, layoff and return from layoff, compensation, job assignments, job classifications, paid or unpaid leave, fringe benefits, training, employer-sponsored activities, including recreational or social programs, will be conducted so as not to discriminate unlawfully against persons with disabilities. This also extends to prohibit unlawful discrimination based on a person's relationship or association with a disabled individual. Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) along with work assignments, classifications, seniority, leave, and all other forms of employment compensation or advantage.

**Reasonable Accommodation** – Reasonable accommodation is available to all qualified employees and applicants with disabilities, unless it imposes an undue hardship on the Town and/or operations of a program. The Town may require medical documentation or other information necessary to verify the existence of the disability and the need for accommodation. Following receipt of an accommodation request, the Town will meet with the requestor to discuss and identify the precise limitations resulting from the disability and the potential accommodation(s) that the Town might make to help overcome those limitations.

The Town will determine the feasibility of the requested accommodation considering various factors, including, but not limited to the nature and cost of the accommodations(s), and the accommodation's impact on Town operations.

**Pre-Employment Inquiries** – Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position and not any disabling condition. Pre-employment physical exams will only be requested when in compliance with the law. The Town of Newcomb intends to base employment decisions on principles of equal employment opportunity and nondiscrimination, as defined by law.

**Notification of Policy Violations** – An employee should immediately report any perceived violation of this policy to the employee's supervisor. In the event the employee is unable to discuss this matter with the supervisor, the complaint should be reported in writing to the Town Supervisor or any member of the Town Board. All complaints of possible violations will be investigated discreetly and promptly. An employee who reports a possible violation will not suffer adverse employment consequences as a result of making the complaint. This procedure is not intended to restrict an individual's rights to make a complaint to a federal or state agency.

**Application of Policy** – This policy is for Town use only and does not apply in any criminal or civil proceeding. This policy shall not be construed as a creation of higher legal standard of safety or care in an evidential sense with respect to third party claims. Violations of this policy will only form the basis for Town administrative action. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

## **903 Harassment (Including Sexual Harassment) in the Workplace**

**Policy Statement** – It is the policy of the Town of Newcomb to promote a productive work environment and to prohibit conduct by any employee that disrupts or interferes with another’s work performance or that creates an intimidating, offensive, or hostile work environment. In keeping with this goal, the Town of Newcomb is committed to educate employees in the recognition and prevention of workplace harassment, including sexual harassment, and to provide an effective means of eliminating such harassment from the workplace. Any conduct that denigrates or shows hostility or aversion towards a person on the basis of gender, race, color, national origin, religion, disability, pregnancy, age, marital status, veteran status, military status, genetic predisposition, sexual orientation, or any other protected status is strictly prohibited. In short, the Town will not tolerate any form of harassment, including sexual harassment, and will take all steps necessary to prevent and stop the occurrence of such harassment the workplace. The accompanying complaint procedure is intended to provide an effective mechanism for reporting, and resolving promptly, complaints of harassment, including sexual harassment, without any risk of repercussion to an employee who, in good faith, files such complaint.

**Applicability of Policy** – This policy applies to all Elected Officials, employees, and supervisors, whether employed full or part-time, temporary or seasonal, whether elected or appointed and regardless of compensation level, and all personnel in a contractual relationship with the Town. Depending on the extent of the Town’s exercise of control, this policy may be applied to the conduct of non-Town employees with respect to harassment of Town employees in the workplace.

**Supervisory Responsibility** – Supervisors are responsible for ensuring a work environment that is free from harassment including sexual harassment. Supervisors must take immediate and appropriate corrective action when instances of harassment come to their attention in order to assure compliance with this policy.

**Prohibited Activity** – No employee shall either explicitly or implicitly ridicule, mock, deride, or belittle any person. Employees shall not make offensive or derogatory comments based on race, color, sex, religion, national origin, or any other protected status either directly or indirectly to another person. Employees shall not produce offensive or inappropriate written materials (e.g. letters, email messages, or graffiti.) These are examples of harassment that are a prohibited form of discrimination under State and Federal employment law and also considered misconduct subject to disciplinary action by the Town; it is not intended to be a comprehensive list and does not limit the Town’s ability to take disciplinary action in other appropriate instances.

**Definition of Sexual Harassment** – This policy places special attention on the prohibition of sexual harassment in the workplace. Sexual advances that are not welcome, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term of condition of an individual’s employment; OR
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions, such as promotion, transfer, or termination, affecting such individual; OR

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment refers to behavior that is not welcome, that is personally and objectively offensive, that fails to respect the rights of others, that lowers morale and that, therefore, interferes with an employees' work performance and/or effectiveness or creates an intimidating, hostile or offensive working environment. Exposure to such conduct that serves to alter the terms and conditions of employment is prohibited by this policy and state and federal law.

**Forms of Sexual Harassment** – Specific forms of behavior that the Town of Newcomb considers sexual harassment and which are prohibited include, but are not limited to, the following:

- Quid pro quo threats or promises by a supervisor (loss of job or promise of job, promotion, or other employment benefit).
- Verbal harassment of a sexual nature related to an employee's gender, including sexual innuendoes, slurs, sexual slurs, suggestive, derogatory, insulting or lewd comments or sounds, whistling, jokes of a sexual nature, sexual propositions and/or threats.
- Sexually oriented comments about an employee's body that are unwelcome and/or unreasonably interfere with an employee's work performance or create an intimidating, hostile, or offensive working environment.
- Any sexual advance that is unwelcome or any demand for sexual favors.
- Sexually suggestive written, recorded or electronically transmitted material, showing or displaying pornographic or sexually explicit objects or pictures, graphic commentaries, leering or obscene gestures in the workplace such that it unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive working environment.
- Physical contact of any kind which is not welcome, including touching, grabbing, hugging, fondling, jostling, petting, pinching, coerced sexual intercourse or sexual relations, assault or intentional brushing up against a person's body.

**Reporting of Harassment (including Sexual Harassment)** – Employees are encouraged to report incidents of harassment (including sexual harassment) to their supervisor and/or Town Supervisor as soon as possible after their occurrence. If the employee's supervisor is believed to be involved in the incident, the report should be made directly to the Town Supervisor. If the Town Supervisor is the source of the alleged harassment, the employee should report the problem to a Town Board member. Employees who believe they have been harassed and would like to obtain guidance as to how to proceed in filing a complaint, should contact their immediate supervisor, the Town Supervisor, or any member of the Town Board. Employees who work during off-hours are encouraged to contact their supervisor, their supervisor, the Town Supervisor, or any member of the Town Board at home if these individuals do not work during the employee's shift.

**Workplace Harassment (including Sexual Harassment) Complaint Form** – To ensure that all harassment complaints are managed appropriately, effectively and in accordance with the Town's policy, harassment complaints, including sexual harassment complaints, will be recorded in writing by using the Town sanctioned *Workplace Harassment Complaint Form*. These forms can be obtained from the Town Supervisor's Office. If needed, additional guidance can be obtained from the Town Supervisor's Office.

**Confidentiality** – Complaints of harassment will be handled and investigated promptly and in a manner that is as impartial and confidential as possible. In no event will information concerning a complaint be released by the Town to third parties or to anyone within the Town employment who is not directly involved in the investigation or handling of the complaint unless otherwise required by law.

**Investigation of Complaint** – The Town Supervisor will determine the appropriate individual(s) to conduct the investigation. The investigation will normally include conferring with the parties involved and any named or apparent witnesses. The particular facts of the allegation will be examined individually, with a review of the nature of the behavior and the context in which the incident(s) occurred. Any complaints received will be investigated promptly, thoroughly, and in as impartial a manner as possible. All employees are required to cooperate in an investigation, if so directed.

**Employee or Elected Official Defense** – Any employee or Elected Official charged with sexual harassment will be afforded a full and fair opportunity to offer and present information in their defense. Such information will be confidential to the extent possible.

**Employee Rights** – Nothing in this policy should be construed as in any way limiting employees' rights to use the Dispute Resolution Procedure as described in the Town of Newcomb Employee Handbook or any grievance procedure contained in a collective bargaining agreement. Employees also have the right to file a formal complaint with appropriate state or federal agencies responsible for administering anti-discrimination laws.

**Disciplinary Action** – Any employee or official who is found to have committed an act of workplace harassment including sexual harassment will be subject to disciplinary action, up to and including termination of employment, as provided by Town operating procedures including Civil Service Law Section 75 or the disciplinary procedures contained in a collective bargaining agreement, whichever is applicable. Any Elected Official who violates this policy will be subject to remedial action as provided for and/or allowed under NYS Public Officers Law, as well as any other applicable statutes. Any vendor, supplier, visitor, customer, or other non-employee who violates this policy will be subject to remedial action, to the extent that the Town is empowered to take such action.

**Prohibition Against Retaliation** – Retaliation against any employee who brings a written or verbal complaint of harassment or discrimination or who assists or participates in the investigation of such a complaint is strictly prohibited. The Town will not tolerate or permit adverse treatment of employees because they report harassment or discrimination or provide information related to such complaints. Any employee who participates in the procedure may do so without fear of retaliation. Violations of this policy may result in disciplinary action up to and including termination of employment.

## **904 Violence in the Workplace**

**Policy Statement** – The Town of Newcomb is committed to providing its employees with a work environment that is safe, secure, and free from violence. The Town also considers the safety of its residents, vendors, contractors, and the general public (collectively referred to as “visitors”) to be of paramount importance and strives to provide them the same type of protections while on Town property.

**Workplace Violence Prevention Program** – In accordance with the New York State Workplace Violence Prevention Act, the Town of Newcomb has developed a Workplace Violence Prevention Program. As a part of this program, the Town conducted a comprehensive risk evaluation of the entire workplace and will conduct annual reviews to identify risk factors that may increase the likelihood of workplace violence and implement measures to minimize or eliminate these hazards. In order to achieve this goal, the Town encourages the participation and cooperation of employees and their authorized employee representative(s). A copy of the program is available from the Town Supervisor’s Office.

**Prohibited Conduct** – The Town has zero tolerance for violence of any kind in the workplace, including but not limited to, physical assault (e.g., hitting, pushing), threatening or intimidating behavior, or verbal abuse or harassment. In addition, employees and visitors are prohibited from possessing firearms or weapons (e.g., guns, knives, explosives, and other items with the potential to inflict harm) in the workplace, even if licensed to carry the weapon. The only exceptions are law enforcement and authorized security personnel. An employee who has knowledge that a coworker or visitor possesses a weapon on Town property must report this to a supervisor immediately.

For the purpose of this program, the workplace is defined as any location away from an employee’s home, either permanent or temporary, where the employee performs any work-related duty in the course of employment. This includes, but is not limited to, Town-owned buildings and surrounding perimeters, parking lots, work sites, clients’ homes, and traveling to and from work assignments.

**Reporting Requirements** – Any incident of workplace violence or imminent danger must be promptly reported to the supervisor or as outlined in Workplace Violence Prevention Program.

**Policy Violations** – Violations of this policy will result in appropriate remedial, disciplinary, and/or legal action, according to the circumstances.

**Prohibition Against Retaliation** – An employee will not be subject to criticism, reprisal, retaliation, demotion, discrimination, disciplinary action, or other adverse employment action for making a good faith report of acts pursuant to this program.

## **905 Drug-Free Workplace / Drug Free Awareness Program**

**Policy Statement** – It is the policy of the Town of Newcomb that the unlawful manufacture, distribution, dispensation, possession, or use of an illegal controlled substance as defined in the Federal Drug-Free Workplace Act, is prohibited on the job or at the workplace.

**Coverage** – The Town of Newcomb's Drug-Free Workplace Policy pertains to all individuals who are employed by the Town of Newcomb.

**Compliance with Federal Drug-Free Workplace Act** – The Federal Drug-Free Workplace Act of 1988 is applicable to all recipients of Federal grants. In order to receive federal funds, the Town must certify to the granting Federal agency that it will provide a drug-free workplace in accordance with the legislation. As a recipient of Federal grants, the Town hereby complies with the requirements of the Drug-Free Workplace Act by adopting this policy and drug-free awareness program:

**Prohibited Conduct** – No employee shall use, sell, distribute, dispense, possess, or manufacture any alcoholic beverage, illegal drugs, or any other intoxicating substance, nor be under the influence of such, while on duty, at any job site or workplace, or in a Town vehicle, a vehicle leased for Town business, or a privately owned vehicle being used for Town business. An employee who, after investigation, is found to have violated this prohibition may be referred for counseling or rehabilitation and satisfactory treatment and will be subject to criminal, civil and disciplinary penalties, up to and including termination of employment. Any work-related accident or injury involving a Town vehicle, equipment, and/or property where it can be demonstrated that the use of alcohol, illegal drugs, or any other intoxicants may have been a contributing factor will result in disciplinary action which may include penalties up to and including termination of employment.

**Use of Prescription and Over-the-Counter Drugs** – Prescription drugs must be in the possession of the individual to whom the prescription was written, taken in the dosage prescribed, and maintained in their original containers. Employees in public safety or safety-sensitive positions must inform their supervisors of any prescription or legal, nonprescription (i.e., over-the-counter) drugs they are currently taking that could in any way affect or impair the employee's ability to perform the job safely. The legal use of prescribed and over-the-counter drugs is permitted on the job only if it does not impair an employee's ability to perform the job safely and if it does not affect the safety or well being of other individuals in the workplace.

**Non-Discrimination Policy** – The Town of Newcomb will not discriminate against an applicant or employee because of past substance abuse provided it can be demonstrated that the applicant/employee has received appropriate treatment and tests negative for controlled substance use. It is the current use of alcohol and controlled substances that will not be tolerated in the workplace.

**Employee Assistance** – It is the policy of the Town to work with an employee suffering from substance abuse so that the employee will receive assistance necessary to overcome dependency. An employee seeking such assistance is encouraged to contact the employee's supervisor to discuss the situation before problems begin to surface in the workplace. Any disclosures made by an employee will be treated as strictly confidential to the greatest extent practicable. The employee's decision to seek assistance will not be used as the basis for disciplinary action nor used against the employee in any disciplinary proceeding.

**Employee Responsibilities** – As a condition of the Town receiving Federal grant monies, each employee must abide by this policy and notify the employee’s supervisor of any criminal drug statute conviction for a violation occurring in the workplace within five calendar days of the conviction.

**Town Responsibilities** – The Town will notify the granting federal agency within ten days after receiving notice from an employee of such a conviction or otherwise receiving actual notice of such conviction. In addition, within thirty calendar days of receiving notice of a conviction, the Town will take disciplinary action against the employee and/or require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program pursuant to Sections 702 and 703 of the Drug-Free Workplace Act.

**Drug-Free Awareness Program** – It is the policy of the Town of Newcomb to maintain a drug-free workplace. In accordance with that policy, the Town is providing the following drug-free awareness information to raise employee awareness of the dangers associated with drug abuse in the workplace.

**Dangers of Drug Abuse in the Workplace**

Employees with chemical dependence problems have a major negative impact on productivity, staff moral, and labor/management relations. Their hidden illness is responsible for:

1. Declining Performance

- poor concentration
- confusion in following directions
- noticeable change in the quality of work
- inability to meet deadlines
- errors in judgment affecting the health and safety of others
- customer complaints and injuries

2. Increased Costs

- five times the average sick and accident benefits
- higher job turnover, replacement and training costs
- greater workers’ compensation and health insurance payments
- 3 to 5 times more on-the-job accidents
- unemployment claims

3. Absenteeism and Tardiness

- double the normal rate
- repeatedly being late for work and often leaving early
- extended lunch hours
- frequent illness and accidents both on and off the job

4. Damaged Relationships

- emotional outbursts, over-reaction to criticism, mood swings, complaints from co-workers, associates and the public often leading to damaged relations

## **906    *Controlled Substance and Alcohol Testing***

**Statement of Compliance** – The Town Board has adopted a Controlled Substance and Alcohol Testing Policy that is in compliance with the "Omnibus Transportation Employee Testing Act of 1991" (OTETA). The purpose of this policy is to reduce accidents resulting from an employee's use of controlled substances and alcohol, thus reducing fatalities, injuries and property damage.

**Covered Employees** – The Town's Controlled Substance and Alcohol Testing Policy applies to all covered drivers as defined by the federal regulations, which includes all employees who drive commercial motor vehicles (as defined in Sec. 382.107 of the OTETA) requiring a commercial driver's license to operate.

**Acknowledgment Form** – A covered employee will receive a written copy of the Controlled Substance and Alcohol Testing Policy and must sign an Employee Acknowledgment Form. This form will be placed in the employee's personnel file.

## **907    *Smoking***

**Policy Statement** – In accordance with the NYS Clean Indoor Air Act, it is the policy of the Town to prohibit smoking in the workplace, which includes all Town buildings and all Town vehicles.

## **1000 SAFETY**

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### **1001 Workplace Safety**

**Policy Statement** – Prevention of injury and illness in the workplace requires the cooperation of all employees in all safety and health matters. It is the policy of the Town to reduce the number of workplace injuries and illnesses to an absolute minimum. Accidents can be prevented through use of reasonable precautions and the practice of safe working habits.

**Employee Responsibility** – In an effort to protect all employees and to safeguard equipment and property, before an employee begins a given task, it is the employee's responsibility to understand the correct operation and possible hazards involved, safety procedures, and necessary safety equipment required to perform the job.

**Safety Program** – The Town's safety program includes, but is not limited to, the following:

- Providing mechanical and physical safeguards to the maximum extent possible;
- Conducting inspections to find and eliminate unsafe working conditions and practices, control health hazards, and comply with the safety and health standards for every job;
- Training all employees in safety and health practices;
- Providing necessary personal protective equipment and instructions for its use and care;
- Developing and enforcing safety and health rules and requiring that employees cooperate with these rules as a condition of employment;
- Investigating, promptly and thoroughly, every accident to find the cause and correct the problem to prevent future occurrences;
- Providing First Aid kits and fire extinguishers throughout buildings and facilities.

**Accident Plan** – In the event of an accident, an employee must immediately stop work and take the following steps:

- Eliminate the immediate cause of the accident;
- Provide aid to the injured person and summon for assistance;
- Call the supervisor immediately;
- If the accident appears serious, call 911; and
- Take steps to prevent additional accidents.

**Accident Reporting Procedures** – In the event an accident occurs in the workplace or in the course of employment, the following procedures will apply:

- When an accident occurs which results either in the loss of an employee's work time, or in the provision of medical care to an employee, the employee must immediately notify the supervisor who will in turn notify the Clerk to Supervisor. The Clerk to Supervisor must complete an *Employer's Report of Injury Form (C-2)* and submit according to operating procedures.
- When an accident occurs which does not result in the loss of an employee's work time, or in the provision of medical care to the employee, the employee must immediately notify the supervisor who will in turn notify the Clerk to Supervisor. The Clerk to Supervisor will maintain appropriate documentation of the incident.
- The Clerk to Supervisor will keep a log of the injury or illness for five years following the end of the calendar year to which it relates. A copy of this log, which includes totals and information for the year, must be posted in each department or areas where notices to employees are customarily posted.

## **1002 Hazard Communication Program**

**Statement of Compliance** – The Town of Newcomb is committed to providing a safe and healthy work environment and complies with all Federal, State and local laws regarding hazard recognition, accident prevention, and working conditions. The Town considers Hazard Communication and the prevention of workplace injuries and illnesses to be of prime importance.

**Guidelines** – The following guidelines for the identification of chemical hazards and the preparation and proper use of containers, labels, placards, and other types of warning devices must be adhered to:

- **Chemical Inventory** – The Town must maintain an inventory of all known chemicals in use. An employee may obtain the chemical inventory from the employee's supervisor or supervisor.
- **Container Labels** – All chemicals on a work-site must be stored in the original or approved containers with the proper label attached. The supervisor must ensure that each container is labeled with the identity of the hazardous chemical contained and any appropriate hazard warnings. The Town will rely on manufacturer applied labels whenever possible. A container that is not labeled or on which the manufacturer's label has been removed, must be properly labeled. A container not properly labeled must be given to the supervisor for labeling or proper disposal.
- **Dispensing Chemicals** – An employee may dispense chemicals from original containers only in small quantities intended for immediate use. Any chemical leftover must be returned to the original container or to the supervisor for proper handling. No unmarked containers of any size are to be left in the work area unattended.

**Safety Data Sheets (SDS)** – An employee working with a Hazardous Chemical shall obtain a copy of the Safety Data Sheet (SDS) and a standard chemical reference from the employee's supervisor.

**Employee Training** – An employee must be trained to work safely with hazardous chemicals. This training program must cover the following areas:

- Methods used to detect the release of hazardous chemicals in the workplace;
- Physical and health hazards of chemicals and the measures used to protect employees;
- Safe work practices;
- Emergency responses to the exposure of hazardous chemicals;
- Proper use of personal protective equipment; and
- Hazard Communication Standards, including labeling and warning systems, and an explanation of the use of Safety Data Sheets.

**Personal Protective Equipment (PPE)** – \*The Town of Newcomb will pay up to \$250.00 per calendar year to a full-time employee for the purpose of requiring him/her to wear safety shoes, in good condition, on the job at all times. This annual amount may also be used to purchase personal protective equipment and clothing. Reimbursement shall be made upon submission of an original receipt. For online purchases, a copy of credit card statement must be submitted with a copy of the online transaction receipt. Probationary employees, upon completion and elevation to full time status, will be reimbursed for safety shoes, upon submission of an original receipt. For online purchases, a copy of credit card statement must be submitted with a copy of the online transaction receipt.

**Emergency Response** – Any incident of overexposure or spill of a hazardous chemical/substance must immediately be reported to the employee's supervisor. The supervisor must insure that proper emergency response actions are taken.

**Hazards of Non-Routine Tasks** – The supervisor must inform employees of any special tasks that may arise which would involve possible exposure to hazardous chemicals. Review of safe work procedures and use of required PPE must be conducted prior to the start of these tasks. Where necessary, areas will be posted to indicate the nature of the hazard involved.

\*Amended 11/18/2021

## **1100 COMMUNICATION PROCEDURES**

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### **1101 Organizational Communications**

**Summary** – The Town Board is committed to assuring effective communications between the Board and employees. The success of the organization is dependent upon a set of common interests and goals that are achieved through teamwork, sharing of ideas, and effective communications of our short-term and long-term plans. From time to time, information and updates will be distributed to employees. All employees are encouraged to discuss this information with their supervisor should there be any questions.

**Methods of Communication** – Information will be communicated to employees in a variety of ways, including general and departmental meetings, memos and other written correspondence, notices distributed with paychecks, and posting of information. Employees should check bulletin boards frequently to keep informed on changes in employment matters and other items of interest. Except as otherwise provided by a collective bargaining agreement, all material to be posted on bulletin boards, including memos and announcements, must have the prior approval of the appropriate supervisor.

### **1102 Adverse Communications**

**Policy Statement** – An employee who receives any communication of a negative nature directed to the Town, or to any of its officers or employees in their official capacity, shall immediately notify and/or forward the communication to the appropriate supervisor. The term “communication” shall refer to both written and verbal communications, and includes, but is not limited to, memoranda, faxes, messages, letters, legal notices, e-mails, summonses and other communications.

### **1103 Suggestions**

**Policy Statement** – Giving and receiving feedback is encouraged in order to promote a positive, productive, and cooperative atmosphere. Employees should notify their supervisor of any suggestions which may be valuable to the Town’s productivity and success. All suggestions will be carefully reviewed and may be implemented if feasible.

### **1104 Public Relations**

**Policy Statement** – The courteous, professional treatment of members of the public by all employees helps to build confidence among the taxpayers we serve. We ask that all employees make every effort to represent the Town in a polite and professional manner.

## **1105 Reporting of Improper Activities**

**Policy Statement** – Any employee who witnesses or becomes aware of an inappropriate action, improper financial circumstance, inappropriate use of Town funds or property, safety issue, or other matter that appears to be improper, should immediately make his or her Department Head or supervisor, the Town Supervisor, or any Town Board member aware of the issue. When an imminent and serious danger to public health or safety exists, an employee may see fit to immediately report violations to law enforcement or other applicable governing body. Even if you are in doubt about what you witnessed or were made aware of you should report the matter.

**Retaliation** – Under Section 75-B of New York State Civil Service Law, New York State Public Sector Whistleblower Law, an employee, who in good faith, discloses to a governmental body information regarding a violation of law, a substantial and specific danger to the public health or safety, or an improper governmental action which the employee reasonably believes to be true, shall be protected from any adverse personnel action including, but not limited to: termination, disciplinary action, or changes in compensation. Any Town employee or officer who commits or condones any form of retaliation against anyone who in good faith reports alleged misconduct will be subject to discipline up to, and including, termination.

## **1200 DISPUTE RESOLUTION**

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### ***1201 Dispute Resolution Procedure***

**Policy Statement** – The Town Board has established a set of procedures to provide for the orderly resolution of differences at the earliest possible stage and to promote a harmonious and cooperative relationship between employees, supervisors and members of the Town Board which will enhance the overall operation of the Town. The Town will attempt to resolve all work-related complaints that are appropriate for handling under this policy.

**Definition of Dispute** – For the purpose of this Employee Handbook, a “dispute” will mean a claimed violation, misinterpretation or inequitable application of any of the provisions of this Employee Handbook. In addition, the term “dispute” shall not apply to any matter as to which the Town is without authority to act. A few examples of matters that may be considered appropriate disputes under this policy include:

- A belief that Town policies, practices, rules, regulations, or procedures have been applied in a manner detrimental to an employee;
- Treatment considered unfair by an employee, such as coercion, reprisal, harassment, or intimidation;
- Alleged discrimination because of race, color, sex, age, religion, sexual orientation, national origin, marital status, disability; or any other protected class; and
- Improper or unfair administration of employee benefits or conditions of employment such as scheduling, vacations, fringe benefits, promotions, retirement, holidays, salary, or seniority.

**Step One** – An employee who claims to have a dispute may present the dispute to the employee’s supervisor. The dispute must be submitted, in writing, within seven working days following knowledge of the event(s) which caused the dispute or when the employee should have had knowledge. The dispute will specify the date of submission, the name of the aggrieved employee, the date the dispute arose, the nature of the dispute, the provision of the Employee Handbook that was allegedly violated and a statement of facts, times, dates, and the remedy sought.

Within seven working days after receiving the dispute, the employee’s supervisor will meet with the employee to discuss and attempt to resolve the matter.

**Step Two** – In the event the informal dispute is not resolved at Step One, or the employee reasonably believes that the employee cannot present the dispute to the employee’s supervisor, the employee may submit the matter to the Town Supervisor. The dispute must be submitted, in writing, within seven working days from receiving the Step One response, or when the response should have been received or if Step One is not utilized for the above reason, within seven working days following knowledge of the event(s) which caused the dispute or when the employee should have had knowledge.

Within seven working days after receiving the dispute, the Town Supervisor will meet with the employee to discuss and attempt to resolve the matter. Within seven working days from the meeting, the Town Supervisor will issue a written response.

**Step Three** – In the event the employee is not satisfied with the response at Step Two, the employee may submit the matter to the full Town Board by filing a Request for Hearing with the Town Clerk. The Request for Hearing must be submitted, in writing, within seven working days from receiving the Step Two response, or when the response should have been received. The Request for Hearing will include a written statement of the dispute as outlined in Step One of this Procedure.

The Town Board will set the time and place for the hearing. All decisions rendered by the Town Board will be final and binding.

**Time Limits** – The employee must adhere to the time limits set forth in this dispute procedure. In the event the employee does not advance the dispute to the next step within the established time limit, the dispute will be considered withdrawn and no further appeal will be accepted. The time limits may be extended by mutual agreement provided the extension is in writing, dated and signed by the employee and the person who is to receive the dispute.

**Final Decisions** – Final decisions on disputes will not be precedent-setting or binding on future disputes unless they are stated as official Town policy.

**Proper Use of Dispute Resolution Procedure** – Employees will not be penalized for proper use of the dispute resolution procedure. However, it is not considered proper use if an employee raises a dispute in bad faith or solely for the purposes of delay or harassment, or repeatedly raises meritless disputes. Implementation of the dispute procedure by an employee does not limit the right of the Town to proceed with any disciplinary action that is not in retaliation for the use of this procedure.

**Refusal to Proceed with Dispute** – The Town Board may, at its discretion, refuse to proceed with any dispute it determines is improper or baseless under this policy.

**Bargaining Unit Employees** – A bargaining unit employee should refer to the applicable collective bargaining agreement to determine if the employee's dispute (grievance) may be subject to a grievance procedure contained in the employee's collective bargaining agreement.

# 1300 EMPLOYEE ACKNOWLEDGEMENT FORM

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Detach and place in employee's personnel file.

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| <p style="text-align: center;"><b>TOWN OF NEWCOMB</b></p> <p style="text-align: center;"><b>EMPLOYEE HANDBOOK ACKNOWLEDGMENT</b></p> |
|--|

I hereby acknowledge that I have received a copy of the *Town of Newcomb Employee Handbook* outlining the rules, regulations, procedures, practices, work standards, employment classifications, compensation, and benefits of the Town of Newcomb. I further acknowledge that I have read, or will read, the contents of the Employee Handbook and will contact my supervisor or the Town Supervisor if I have any questions.

I understand that the Employee Handbook is not meant to create a contract of employment, nor should it be construed as creating a contract of employment and that the Town Board of the Town of Newcomb reserves the right to interpret, change or modify any section of the Employee Handbook at any time.

I understand that, if I am covered by a collective bargaining agreement between the Town of Newcomb and an employee organization as defined by the Public Employees' Fair Employment Act, in the event an expressed and explicit provision set forth in a collective bargaining agreement should conflict with an employee benefit, personnel policy, personnel procedure, or other provision set forth in the Employee Handbook, the expressed and explicit provision of the collective bargaining agreement will control. Otherwise, unless expressly excluded herein, the Employee Handbook is applicable to all employees.

I agree to abide by the personnel policies, procedures, rules and regulations outlined in the Employee Handbook.

I understand that the Employee Handbook and the changes contained herein are intended to supersede all prior manuals and guidelines issued by the Town of Newcomb.

\_\_\_\_\_  
Employee name (please print)

\_\_\_\_\_  
Supervisor Name (please print)

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Supervisor Signature

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Date of Signature