

# TOWN OF CANANDAIGUA

# EMPLOYEE HANDBOOK

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Town Board on March 17, 1997**

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May 20, 2024**

# Town of Canandaigua Employee Handbook

## Table of Contents

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### **100 INTRODUCTION**

101	Welcome Message from the Town Manager, Town Supervisor and Town Board .....	5
102	Our Heritage.....	5
103	Definitions.....	6
104	The Purpose of this Employee Handbook.....	7

### **200 EMPLOYEE CLASSIFICATIONS**

201	Full-Time Employees.....	8
202	Part-Time Employees.....	8
203	Temporary Employees.....	8
204	Seasonal Employees.....	8
205	FLSA Exempt Employees.....	8
206	FLSA Non-Exempt Employees	

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

301	The Unclassified and Classified Services.....	9
302	Civil Service Appointments.....	9
303	Examinations and Promotions.....	10
304	Veteran's Credits .....	10

### **400 EMPLOYMENT MATTERS**

401	Oath of Office.....	11
402	Procedure for Filling Vacancies.....	11
403	Probationary Period .....	12
404	Corrective Action and Discipline.....	13
405	Civil Service Law Section 75.....	16
406	Code of Ethics.....	18
407	Personnel File.....	20
408	Separation of Employment.....	21

### **500 OPERATIONAL POLICIES**

501	Departmental Hours.....	22
502	Emergency Situations.....	23
503	Meal and Rest Breaks and Breaks for Nursing Mothers.....	24
504	Time Records.....	25
505	Bonding.....	26
506	Expense Reimbursement.....	26
507	Vehicle Usage .....	27

508	Driver's License / Insurance Requirements.....	28
509	Supplies, Tools and Equipment, and Fuel Usage.....	29
510	Telephone / Cell Phone Usage / Electronic Device Usage.....	30
511	Use of Communication Systems and Equipment.....	31
512	Social Media.....	33
513	Personal Appearance.....	35
514	Solicitations / Distributions.....	35
515	Visitors.....	35
516	Purchasing / Credit Cards.....	36
517	Maintenance of Work Area.....	36
518	Personal Property.....	36
519	Town Property.....	36
520	Unauthorized Work.....	37
521	Outside Employment.....	37

**600    ABSENCE POLICIES**

601	Attendance.....	38
602	Bereavement Leave.....	39
603	Jury Duty Leave.....	40
604	Military Leave and Military Leave of Absence.....	41
605	Family and Medical Leave Act.....	42
606	Family and Medical Leave Policy.....	43
607	Leave for Cancer Screening.....	48
608	Leave for Blood Donations.....	48

**700    COMPENSATION**

701	Wage and Salary.....	49
702	Overtime.....	49
703	Call-In Pay.....	50
704	Pay Period and Check Distribution.....	50
705	Payroll Deductions.....	50
706	Deferred Compensation Plan.....	51
707	Employee Recognition Program.....	51

**800    EMPLOYEE BENEFITS**

801	Holidays.....	52
802	Vacation Leave.....	53
803	Sick Leave.....	55
804	Donation of Sick Leave Policy.....	57
805	Personal Leave.....	59
806	Disclosure of Insurance Benefits.....	60
807	Medical / Dental Insurance.....	61
808	Medical Insurance Buy-out.....	62
809	Retiree Medical Benefits.....	63
810	Continuation of Health Insurance Benefits (COBRA/NYS Continuation Coverage).....	64
811	Workers' Compensation Benefits.....	66
812	Short-Term Disability Benefits.....	67
813	Unemployment Benefits.....	67

<b>814</b>	Social Security.....	67
<b>815</b>	Clothing Allowance.....	67
<b>816</b>	Education Assistance.....	68
<b>817</b>	The New York State Employees' Retirement System.....	68
<b>818</b>	Volunteer Firefighters.....	69
<b>819</b>	Employee Assistance Program.....	69
<b>900</b>	<b><u>COMPLIANCE POLICIES</u></b>	
<b>901</b>	Equal Employment Opportunity.....	70
<b>902</b>	The Americans with Disabilities Act.....	71
<b>903</b>	Harassment (Including Sexual Harassment) in the Workplace.....	72
<b>904</b>	Violence in the Workplace.....	75
<b>905</b>	Drug-Free Workplace / Drug Free Awareness Program.....	76
<b>906</b>	Controlled Substance and Alcohol Testing.....	78
<b>907</b>	Smoking.....	78
<b>1000</b>	<b><u>SAFETY</u></b>	
<b>1001</b>	Workplace Safety.....	79
<b>1002</b>	Hazard Communication Program.....	80
<b>1100</b>	<b><u>COMMUNICATION PROCEDURES</u></b>	
<b>1101</b>	Bulletin Board.....	82
<b>1102</b>	Adverse Communications.....	82
<b>1103</b>	Suggestions.....	82
<b>1104</b>	Public Relations.....	82
<b>1105</b>	Disclosure of Information and Media Relations.....	82
<b>1106</b>	Reporting of Improper Activities.....	84
	.....	84
<b>1200</b>	<b><u>DISPUTE RESOLUTION</u></b>	
<b>1201</b>	Dispute Resolution Procedure.....	85
<b>1300</b>	<b><u>EMPLOYEE ACKNOWLEDGEMENT FORM</u></b>	

## 100 INTRODUCTION

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### **101 *Welcome Message from the Town Manager, Town Supervisor and Town Board***

We would like to welcome you and congratulate you on your appointment to a position with the Town of Canandaigua. 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 Department Head.

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

### **102 *Our Heritage***

Canandaigua officially became a Town in 1791. The first Town meeting was held in April of 1791 and was presided over by Supervisor Israel Chapin. Initially, there was no distinction between the Village and the Town of Canandaigua. In 1815, the Village and Town became two separate political entities.

For years, the Town's way of life remained much the same. Many small farms provided a pleasant and economically viable way of life. In the 1800's the Town's annual budget never exceeded eighteen-hundred dollars. In the 1900's, things began to change. With the possibility of everyone owning automobiles, roads needed more attention than they had received when only horses and buggies traversed them.

After World War II, expensive machinery required for successful farming made little farms not economically sound. The Town began to change. Farmers sold land to people interested in living in a beautiful rural setting and lake property became extremely desirable with the more efficient highway system.

In 1960, there were 4,894 people residing in the Town; by 2010 the population was 10,020 – an increase of almost 105%.

### 103 Definitions

**Town of Canandaigua** – For purposes of this Employee Handbook, the Town of Canandaigua 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 Canandaigua.

**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 Canandaigua:

- Town Supervisor
- Town Board Members
- Highway Superintendent
- Town Clerk
- Tax Collector
- Town Justices

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

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

**Department Head** – For purposes of this Employee Handbook, “Department Head” will mean the person in charge of any department, agency, bureau, unit, or subdivision of the Town of Canandaigua. This definition will be applicable in the event such person is serving in an acting, temporary, or provisional status in the position of Department Head. This term shall also include the Town Supervisor, where an individual otherwise designated as Department Head or any other individual must report to the Town Supervisor.

**Supervisor** – For purposes of this Employee Handbook, “supervisor” will mean the individual so designated by the Department Head to direct and inspect the performance of employees.

**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, Department Head, managerial employee, confidential employee, supervisory employee, provisional employee, probationary employee, temporary employee, seasonal employee, trainee, or student intern, but not an independent contractor.

**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 Ontario 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, or any other applicable law, rule, or regulation.

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 proceeding.

**Changes or Modifications** – The Town Board reserves the rights to interpret, change, modify, or eliminate any provision contained in this Employee Handbook. In addition, 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). Any changes in this Employee Handbook will be distributed to all employees.

**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.

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

## **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.

### **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 forty hours per week.

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

For purposes of this Handbook, the term “part-time employee” will mean and refer to an employee who is regularly scheduled to work less than forty hours 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 basis or employed to work on a special or emergency 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 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 (FLSA), or an employee who is not covered under the FLSA.

### **206 *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 Ontario 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 Ontario County* will include all Town employees who are subject to the *Rules for the Classified Civil Service of Ontario 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 examining the applicant’s qualifications in order to determine whether those qualifications meet the standards set forth in the class specifications adopted for each position; and
- **Labor** – unskilled labor positions, for which a competitive exam is not practicable.

### 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/Seasonal**– 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.. If the position is in the competitive class, it is subject to the following provisions:
  - a. A temporary/seasonal appointment may be made for up to three months where the need for such service is important and urgent without regard to any existing eligible lists.
  - b. A temporary/seasonal appointment may be made for more than three months and up to six months by the selection of anyone on an appropriate eligible list regardless of ranking.
  - c. A temporary/seasonal appointment for more than six months must be made from an appropriate eligible list from among the top three candidates willing to accept the appointment.
  
- **Contingent Permanent** – An appointment made from an eligible list to a position that is permanently encumbered by another employee. The appointed person must serve a probationary period, but cannot become a permanent appointment until the position becomes unencumbered. At the time that the position becomes unencumbered, the contingent employee is granted full permanent status retroactive to the date of the original appointment.

### **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 Ontario County Department of Personnel of persons who have taken the appropriate Civil Service examination. The Ontario County Department of Personnel 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 Veteran's Credit**

**Summary** – An employee who is a veteran as defined by the Civil Service Law may be eligible to apply for veteran's credits on a Civil Service examination. An employee who is a veteran should contact the Ontario County Department of Personnel 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 Canandaigua 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, 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 will be advertised and/or posted and qualified individuals interviewed.

**Appointment to Vacancies** – Subject to state and local law: the Highway Superintendent will have the authority to appoint individuals to fill vacancies in the Highway Department; the Town Clerk will have the authority to appoint individuals to fill vacancies in the Town Clerk's office; the Town Supervisor will have the authority to appoint individuals to fill vacancies identified through State Law; and, the Town Manager will have the authority to appoint individuals to vacancies, other than those in the Highway Department and the Town Clerk's office. Appointments by the Town Manager will be subject to confirmation by the Town Board.

**Residency Preference** – In the event there is a vacancy in a new or existing position which the Town intends to maintain, the Town will give preference to qualified applicants who are residents of the Town.

**Employment Applications** – 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 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 all applicants.

### **403 Probationary Period**

**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 Department Head with an opportunity to evaluate the employee's job performance and potential for development in the position.

**Length of Probationary Period (Competitive Class)** – Except as otherwise provided in the *Rules for the Classified Civil Service of Ontario County*, an employee appointed from an open-competitive list must serve a probationary period of not less than eight weeks and no more than fifty-two weeks. The length of the probationary period may be extended in accordance with the *Rules for the Classified Civil Service of Ontario County*.

**Length of Probationary Period (Other Classes)** – Except as otherwise provided in the *Rules for the Classified Civil Service of Ontario County*, an employee's original appointment to a position in the exempt, non-competitive, or labor class shall be for a probationary period of not less than eight nor more than fifty-two weeks. The length of the probationary period may be extended in accordance with the *Rules for the Classified Civil Service of Ontario County*.

**Successful Completion of Probationary Period** – 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. Or, the employee's appointment will become permanent upon the retention of the employee after completion of the maximum period of service required. **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 is not satisfactory, the employee shall be returned to the employee's former permanent position at the end of the probationary period.

#### **404 Corrective Action and Discipline**

**Policy Statement** – It is the policy of the Town of Canandaigua 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 Canandaigua’s on-going employee relations. When a rule, policy, or procedure is violated, the employee's Department Head, or other designated 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 timeframe 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. 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, however, reserves the right to impose any penalty that it deems appropriate given the misconduct alleged, up to and including summary discharge.

**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 with pay while an investigation is conducted.

**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, including termination, 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) in a Town building 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.
- 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 Department Head.
- 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.
- Committing any violation of the law either on or off duty or on or off the work site that implicates the employee's fitness or ability to perform assigned job duties.
- 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.
- Unauthorized absences or failure to give proper notice of an absence.
- Excessive tardiness and/or absences except those absences covered by state and/or federal statutes.
- Leaving work area without permission, as defined by the Department Head.
- Failure to adhere to the personal appearance/dress code policy.
- Sleeping on the job, unless authorized by a Department Head or supervisor.
- Personal activity during paid work time without the express permission of the Department Head.
- 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.
- Repeated violations of Town policies, procedures or prohibited conduct.

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

## 405 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 Ontario 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.

**Disciplinary Procedure** – The following disciplinary procedure shall apply to employees covered by Civil Service Law Section 75:

- **Notice of Discipline/Counseling Memo** – An employee subject to discipline will be provided with a written Notice of Discipline (NOD)/Counseling Memo 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 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 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:

- 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 or, in the case of a state employee who is designated a managerial or confidential employee under Article 14 of the NYS Civil Service Law, more than twelve months after 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 Ontario County Department of Personnel.

## 406 Code of Ethics

**Statement of Policy** – 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.

**Definition of Municipal Officer Or Employee** – For the purposes of the Town’s Code of Ethics, “officer or employee” will mean and refer to an officer or employee of the Town of Canandaigua, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person will be deemed to be a municipal officer or employee solely by reason of being a volunteer firefighter or civil defense volunteer.

**Definition of Interest** – For the purposes of the Town’s Code of Ethics, “interest” will mean and refer to a pecuniary or material benefit accruing to a municipal officer or employee, unless the context otherwise requires.

**Standards of Conduct** – An officer or employee is subject to, and must abide by, the following standards of conduct:

- **Gifts** – An officer or employee may not directly or indirectly solicit any gift or accept or receive any gift having a value of seventy-five dollars (\$75.00) 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 such 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;
- **Business before the Town or one’s own department** – An officer or employee may not receive or enter into any agreement, expressed or implied, for compensation for services to be rendered in relation to any matter before the Town or one’s own department 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 Town for a contingent fee** – An officer or employee may not receive or enter into any agreement, expressed 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, the officer or employee, 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 may 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 may 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;
- **Confidential information** – An officer or employee may not disclose confidential information acquired in the course of official duties or use such information to further personal interest;
- **Future employment** – No officer or employee, within two years from the termination of services or employment with the Town, may accept employment which will involve contacts with the Town in which such employment takes advantage by virtue of one's prior contact and relationship with the Town; or,
- **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 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.

## **407 Personnel File**

**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 records maintained by the Town include, but are not limited to, Employment Applications, Report of Personnel Change Forms (MSD-426), copies of job- required licenses and certificates, Federal and State Withholding Tax Forms, Retirement Enrollment/Waiver Forms, Health Insurance Enrollment/Waiver Forms, disciplinary and dispute notices, letters of acclamation, and probationary reports.

**Location of Files** – All personnel records for current employees will be kept in the Town Manager's office and will be maintained and controlled by the Town Manager.

**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** – All employee medical records will be kept in a separate file apart from the employee's personnel file in the Town Manager's office and will be maintained and controlled by the Town Manager. ***For security purposes, these files will be locked at all times.***

**Substance Testing Records** – All employee substance testing records will be kept in a separate file apart from the employee's personnel file in the Town Manager's office and will be maintained and controlled by the Town Manager. ***For security purposes, these files will be locked at all times.***

**Change in Status** – An employee must immediately notify the Town Manager's Office 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.

**Employee Access** – An employee may inspect and copy the contents of the employee's own personnel file. Inspections by employees must be requested in writing to the Town Manager and will be scheduled at a mutually convenient time. An authorized official (generally the Town Manager and/or Department Head) must be present when the employee inspects the file. The employee may not remove or place any material in the file without the approval of the Town Manager. Copies of records contained in an employee's personnel file may not be released to a third party without the written consent of the employee, unless federal, state or local laws require otherwise.

## **408 Separation of Employment**

**Notice of Resignation (Employees)** – An employee who intends to resign from employment must submit a written resignation to the employee's Department Head at least two weeks before the date of resignation is to be effective. Failure to submit the proper notice shall result in the loss of payment for accruals. This provision may be waived by the Town Board.

**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 are normally conducted by the Town Manager's Office. 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.

## 500 OPERATIONAL POLICIES

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### 501 *Departmental Hours*

**Normal Hours of Operation** – Unless otherwise specified in state or local law, the Town Board and/or Town Manager will establish the beginning and ending times of normal operation; however, the Town Clerk will have the authority to establish the hours for the Town Clerk’s office. An employee’s Department Head will establish the employee’s scheduled hours of work, which may differ from the normal hours of operation depending upon the particular needs and requirements of the department.

**Workweek** – Unless otherwise specified in state or local law, the Town Board and/or Town Manager will establish the days the Town will conduct business and/or perform services. An employee’s Department Head will establish the employee’s scheduled days of work.

**Compressed Workweek** – With the approval of the Town Board, the Highway Superintendent may schedule a full-time employee to work four ten-hour days. The employee’s “compressed workweek” will normally be either Monday through Thursday or Tuesday through Friday.

**Flex-Time** – An employee may begin and/or end a given workday at a time requested by the employee and approved by the Department Head. 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 Department Head and the employee. The Town Manager and the Town Board reserve the right to approve all “flex-time” schedules.

**Overtime** – A Department Head may require an employee to work additional hours beyond the employee’s normal workday or normal workweek. An employee must receive prior approval from the employee’s Department Head 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 in accordance with Civil Service Law (Section 75).

## 502 *Emergency Situations*

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

**Closing Affect on Compensation** – Pay for FLSA 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 Manager 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 Manager 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 Manager 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 Department Head prior to doing so. The employee must use paid vacation or personal 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.

### **503 Meal and Rest Breaks and Breaks for Nursing Mothers**

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

**Approval of Meal Periods** – Meal periods must be approved by the Department Head in accordance with the needs and requirements of the department. Meal periods must normally be taken in the middle of the employee's workday. Unless otherwise directed by the Department Head, an employee may normally leave the work-site during the meal period.

**Observance of Meal Breaks** – 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 break. An employee is not allowed to work through the meal break to make up lost work time or to leave work early. In addition, the meal break may not be taken at the end of an employee's workday in order to leave work before the normal quitting time.

**Rest Breaks** – A full-time employee will normally receive a paid, duty-free rest break of up to fifteen minutes to be taken approximately in the middle of the first half of the employee's workday and again during the middle of the second half of the workday. In the event an employee works beyond the employee's normal workday, the employee will normally receive an additional paid, duty-free rest break of up to fifteen minutes to be taken approximately in the middle of each four hours of work that is not interrupted by a meal period. An employee who chooses not to take a rest break will not be entitled to leave before the normal quitting time and will not receive extra pay for the time worked.

**Overtime Breaks** – An employee in the Highway Department who begins work for snow removal at least three hours before the beginning of the normal work day will receive a paid, duty-free rest break of up to thirty minutes for the purpose of eating breakfast. The employee may normally leave the work-site during the breakfast break.

**Approval of Rest Breaks** – Rest breaks must be approved by the employee's Department Head in accordance with the needs and requirements of the department. Unless otherwise specified by departmental rules, all rest breaks must be taken at the work-site and may not exceed the time allowed.

**Breaks for Nursing Mothers to Express Breast Milk** – In compliance with NYS Labor Law §206-c, employees who are nursing mothers shall be allowed to use a reasonable unpaid 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 unpaid break at least once every three hours if requested by the employee. The Town will allow the employee to make up time not worked as a result of the unpaid break either before or after the employee's work shift (during the Town's normal hours of operation). 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 unpaid 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.



## **504 Time Records**

**Policy Statement** – All employees are required to complete an individual time record showing the daily hours worked.

**Procedures** – An employee must comply with the following procedures regarding the completion of time records:

- All employees are required to use their designated key fob to clock in and out on the time clocks to show the daily hours worked;
- All paid and unpaid leaves of absence must be submitted and approved by the Department Head through the time keeping system;
- The time sheet must be verified and approved by the Department Head;
- The time sheet of a Department Head must be verified and approved by the Town Manager;
- All time sheets must be approved by the employee and their Department Head by 8:00 a.m. on Monday.

**Correction of Errors** – An employee must immediately bring errors in time sheets to the attention of the employee's Department Head 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 Department Head, 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 or specified duties for the Town during such intervals.

**Falsification of Time Sheets** – An employee who, after investigation, is found to have falsified or altered a time sheet, or the time sheet of another employee, or completed a time sheet for another employee, including using another employee's key fob to clock them in or out, will be subject to appropriate disciplinary action (in accordance with Civil Service Law Section 75 where applicable). In extenuating circumstances where an employee is not able to complete the employee's own time-sheet, the Department Head may complete the time sheet on behalf of the employee.

## **505 Bonding**

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

## **506 Expense Reimbursement**

**Eligible Expenses** – Upon proper authorization and approval 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, parking, and highway tolls. An employee or Elected Official attending a luncheon or dinner as an official representative of the Town will be reimbursed for expenses incurred, upon presentation of an itemized claim. All required documentation and corresponding receipts must be submitted to the Town Manager's Office for reimbursement.

**Mileage** – An employee must use a Town Vehicle if one is available. An employee who is directed by the appropriate Department Head to use the employee's own vehicle to conduct Town business will be reimbursed at the mileage rate established by the Town Board. All required documentation and corresponding receipts must be submitted to the Town Manager's Office for reimbursement.

**Required Training** – Upon proper authorization and prior approval of the Town Board, an employee will be reimbursed for required training. All required documentation and corresponding receipts must be submitted to the Town Manager's Office for reimbursement.

**Required Membership Fees** – Upon proper authorization and approval 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. All required documentation and corresponding receipts must be submitted to the Town Manager's Office for reimbursement.

## **507 Vehicle Usage**

**Policy Statement** – All vehicles and related equipment of the Town of Canandaigua 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 Department Head to which it is assigned.
- Town vehicles must 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 Department Head. In the event of an accident, regardless of severity, an accident report must be filed with the Town Manager's Office, by the applicable Department Head within twenty-four hours.
- The use of a cell phone or any and all hand held devices 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 Canandaigua, nor material not related to the conduct of official Town business, nor pets, without direct authorization by the appropriate Department Head 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 Department Head.
- In the event a Town vehicle must travel outside the limits of New York State, the employee must receive prior approval from the Highway Superintendent or the Town Board, either on a case by case basis or as a comprehensive approval for specified purposes.
- 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. 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 possess a valid CDL at the time of appointment, and must maintain such license throughout employment. 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 Department Head 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 continued employment with the Town, including termination of employment for inability to perform the duties of the job. 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, such as postage, paper, or office supplies for personal use.

**Tools and Equipment** – The Town will supply an employee with the tools and equipment necessary to perform the employee's job duties. It is the responsibility of the employee to use these items wisely. The employee must repair or replace any tool or piece of equipment lost or damaged by the employee as a result of negligence or intentional misuse.

An employee may not use any tool or piece of equipment, including, but not limited to, fax machines and computer equipment for personal use. An employee may not use Town facilities, Town-owned tools or equipment to work on vehicles or trailers not owned by the Town.

**Copiers** – An employee may use a photo-copy machine. The employee must pay a per page fee as may be established from time to time by the Town Board.

**Fuel** – An employee may not use gasoline, fuel oil, or motor oil from the Town's fuel pump or Town Garage for personal use or for any other vehicle not owned by the Town.

## **510 Telephone / Cell Phone Usage / 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;
- Collect calls may not be accepted without the approval of the Department Head or supervisor;
- An employee may not make or receive personal telephone or cell phone calls during work hours, except in an emergency or to check briefly on family matters;
- An employee may not make 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.)

- With the exception of an emergency situation, cell phones may not be used for personal purposes (including text messaging) during work hours unless the employee is on an authorized break or has permission from a supervisor.
- No web browsing, music, movies, or all other uses of cell phones will be allowed during working hours (unless authorized by the Department Head.)
- Personal cell phones that are broken, damaged or lost during working hours will not be replaced or paid for by the Town.

## **511 Use of Communication Systems and Equipment**

**Policy Statement** – The purpose of this policy is to provide the following requirements for the use of Town-owned communication systems and equipment. Communication systems and equipment include but are not limited to computer systems, internet services, hardware, software, laptops, smart phones, cell phones, land-line phones, printers, facsimile machines, copiers, and scanning devices.

**Property** – All communication systems, equipment and files are the property of the Town. This includes the messages created, transmitted, and stored on such systems and equipment.

**Usage** – All communication systems and equipment are provided to an employee for the purpose of aiding that employee in the performance of the employee's job functions. All hardware and software used is to be supplied by the Town. No unauthorized or unlicensed hardware or software may be used or installed on any Town-owned computer. Any hardware or software necessary to perform job duties should be requested of the employee's Department Head.

**Town's Right to Monitor Communication Systems and Equipment** – There is no guarantee of privacy when using Town-owned communication systems and equipment. The Town reserves the right to enter, search, and monitor employee communication systems, equipment, and files, with or without advance notice, at any time in the normal course of business. Department Heads have the authority to inspect the contents of any Town communication systems, equipment, data/files, or electronic messages of their subordinates in the normal course of their supervisory responsibilities. In addition, the data/files of Department Heads and supervisors may be inspected by the Town Manager in the normal course of duty. This applies to all information, messages, and files that are created, transmitted, downloaded, received, stored, or deleted on such systems, including items that are password protected. Additionally, the Town has the authority to monitor and record each web site, chat room, and newsgroup visited on the Internet, and every electronic message and file transfer into and out of the Town's network or communication service. The Town may also monitor each employee's Internet activity and usage patterns to ensure that the Town's resources are being utilized for appropriate business purposes. Any employee who is required to have a password must submit that password to the employee's Department Head.

**Personal Use** – Employees are prohibited from using the Town's communication systems for personal use.

**Prohibited Uses** – In addition to the requirements set forth above, the following uses of Town-owned communication systems and equipment are prohibited. This list is meant to be illustrative, and not exhaustive.

- Any illegal activity;
- Threats or harassment;
- Slander or defamation;
- Transferring, viewing, displaying, storing, distributing, editing, archiving, or recording of any discriminatory message, image, or material, or any obscene, graphic, or suggestive message, image, or material;

Activity that is in violation of any provisions set forth elsewhere in this Employee Handbook;

- Any unauthorized commercial activity;
- Accessing or attempting to access the data/files of another person, unless otherwise authorized as necessary in the course of performing Town business;
- Using or aiding in the unauthorized use of another person's password;
- Harming or destroying data/files (other than editing or deleting information in the normal course of one's job duties);
- Use of non-business software;
- Gambling;
- Use of entertainment software, such as games and puzzles;
- Installation or use of any hardware or software, not authorized by the Town;
- Installation or use of Town-owned hardware or software for any use that is not Town related business;
- Installation or use of any unauthorized or unlicensed hardware or software; and
- Installation of any software containing viruses.

### **Internet / Electronic Messaging Requirements**

**Eligibility** – Internet / electronic messaging service may be provided to employees who can demonstrate a work-related reason to have access. Electronic messages (e- messages) include but are not limited to e-mails, text messages, blogs, instant messages and postings to social networking or other sites. Approval must be given by the employee's Department Head or supervisor.

**Proper Usage** – In addition to the prohibitions set forth in the above paragraphs, any activities prohibited for any other general computer user are also prohibited with respect to Internet / e-messaging service usage. Employees are expected to communicate in a manner that will reflect positively on both themselves and the Town. Additionally, it is the responsibility of the employee to adhere to the following requirements:

- E-messaging must be used in a professional manner;
- Messages must not be threatening, insulting, obscene, abusive, or derogatory;
- Messages must not include content that constitutes workplace harassment including sexual harassment;
- E-messaging may not be used to transmit chain letters;
- Employees are responsible for saving any e-messages that they want to keep permanently;
- E-messages must not involve personal sales or solicitation or be associated with any for-profit outside business activity;
- E-messages must not involve personal not-for-profit solicitations;
- E-messages must not potentially embarrass the Town;
- Passwords should not be given to anyone other than the employee's Department Head or supervisor;
- Internet must not be used for the propagation of computer viruses;
- Internet must not be used for personal recreational activities (e.g. online games);
- Participation in non-business Internet chat groups, blogging or instant messaging is prohibited;
- As a security precaution, a workstation must not be left signed onto E-mail or the Internet while unattended for a long period of time (or overnight). Each employee must log off the network when not in use and power down at the end of the day;



- Employee Internet usage and e-messaging may be subject to filtering and may be monitored;
- Employees should be aware that deletion of any E-mail message or file does not truly eliminate that message or file from the system. All E-mail messages are stored on a central back-up system in the normal course of data management;
- Employees should ensure that no personal correspondence appears to be an official communication of the Town; and
- Employees may not use the Town's address for transmitting or receiving personal mail or use the Town's e-mail address for transmitting or receiving personal e-messages.

**Disclosure of Information** - Employees must bear in mind that e-messages are not private and its source is clearly identifiable. E-messages may remain part of the Town's business records long after they are deleted. Electronic records, including e-messages, are public records subject to state Freedom of Information Law and will be disclosed upon request unless an exemption to disclose is found to apply. In general, e-messages are subject to discovery in civil lawsuits.

**Reliability** – Users should be aware that because the internet is a collection of computer networks with no single central authority over information consistency, data is subject to inaccuracies. The Town is not responsible for loss or damage to a user's data or for the reliability of information that is obtained via the Internet service. Also, this information must be used in accordance with applicable copyright laws.

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

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

## **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** – All employees are strictly prohibited from accessing Social Media sites from Town-owned computers or communication systems. The only exception to this rule is when the use is directly pertinent to Town business.

**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. 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. The personal appearance and dress of employees are important in creating a favorable image supportive of public confidence.

**Dress Code** – An employee must maintain a personal appearance in a manner which reflects a good image to the public. The Town Manager and/or Department Head will have the authority to determine what is appropriate and what is not.

**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 not wear suggestive attire, ripped jeans, athletic clothing, shorts, tank tops, novelty buttons, and similar items of casual attire since this clothing does not present a businesslike appearance. The Town Manager and/or Department Head will have the authority to determine what is appropriate and what is not.

**Safety Clothing and Equipment** – An employee may be required to wear safety clothing and 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 nonemployees 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 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.

## **516 Purchasing / Credit Cards**

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

## **517 Maintenance of Work Area**

**Work Area** – An employee will be responsible for maintaining one’s work area and, if applicable in a neat and orderly manner at all times.

**Town Vehicle** – An employee who is assigned a Town vehicle will be responsible for maintaining the vehicle in a neat and orderly manner at all times and must wash the vehicle at least once each week.

## **518 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. 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 remains 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, either with or without proper 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.

## **519 Town Property**

**Employee Responsibility** – An employee will be responsible for items 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, key fobs
- Uniforms
- Books and other Reference Materials, including this Employee Handbook

**Return of Property** – All Town property must be returned to the Town before the employee’s last day of work.

## **520 *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. Employees must devote their full scheduled shift to Town business, as assigned.

## **521 *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;
- 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 Department Head.

## 600 ABSENCE POLICIES

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### 601 Attendance

**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 Department Head prior to the employee's scheduled starting time. The reason for tardiness and the expected time of arrival must be indicated to the Department Head.

**Daily Notification** – In the event an employee is unable to report to work, the employee must notify the employee's Department Head 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 vacation leave and personal leave, must be approved by the Department Head in advance. All requests for time off are subject to approval by the employee's Department Head on a case-by-case basis. Refer to Section 802, Vacation Leave, and Section 804, Personal Leave, for further details.

**Unscheduled Absences** – An employee who is unable to report to work must personally notify the appropriate supervisor prior to the employee's scheduled starting time. Asking another person to call in on the employee's behalf is not permitted. This procedure must be followed to receive sick leave pay. Notification requirements may be waived in cases of emergency.

**Unexcused Absences** – Notification of an absence to an employee's Department Head does not automatically mean the absence is authorized. Any time off from work that is without approval of an employee's Department Head 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 Department Head prior to leaving.

**Leaving the Premises** – An employee must obtain prior approval from the employee's Department Head 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 who has frequent absences may be required to provide documentation of the reason for any future absences.

## 602 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 of absence for up to three days from the employee’s regularly scheduled work with prior approval from the Department Head. 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 or funeral leave but may be allowed to take time-off without pay provided the employee has prior approval from the Department Head.

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

- Spouse
- Parent
- Grandparent
- Daughter-in-law
- Grandchild
- The employee's same-sex committed partner\* or the child, parent or other relative (categorized above) of the committed partner
- Child
- Sibling
- Parent-in-law
- Son-in-law

*\*Defined under NYS Civil Rights Law §79-n, same-sex committed partners are those who are financially and emotionally interdependent in a manner commonly presumed of spouses*

**Extended Bereavement Leave** – With authorization from the employee’s Department Head, an employee may use vacation leave credits and/or personal leave credits to extend a bereavement leave. The request must be submitted, in writing, to the employee’s Department Head at least two workdays in advance. The Department Head will have total discretion in the approval of an employee’s extended bereavement leave, based on the needs of the department.

**Funeral Leave (Extended Family)** – In the event of a death of a full-time employee’s family member who is a relative not included in the definition of immediate family, the employee may take a paid leave of absence for one day from the employee’s regularly scheduled work to attend the funeral. Such leave will not be subtracted from any of the employee’s leave credits.

## **603 Jury Duty Leave**

**Jury Leave** – In the event a full-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. A part-time employee shall receive paid jury duty leave if the employee is scheduled to work for the Town on the day the jury duty is served. An employee is obligated to notify the Commissioner of Jurors that the Town is paying the employee's full pay during jury duty. An employee can collect and keep any mileage 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 Department Head.

**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, sick leave and holiday benefits will continue to accrue during jury duty leave.



## **604 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 Canandaigua 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 or more 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 Department Head.

## **605 Family and Medical Leave Act**

**Statement of Compliance** – The Town of Canandaigua complies with the provisions of the Family and Medical Leave Act (FMLA). **The Town of Canandaigua currently does not employ fifty or more employees who work twenty or more calendar workweeks per year. Therefore, Town employees are not presently eligible for leave under FMLA.** If at some point the Town of Canandaigua should employ fifty or more employees for twenty or more calendar workweeks in the current or preceding year, eligible employees will be afforded leave in compliance with FMLA.

**Summary** – FMLA entitles an eligible employee to a maximum of twelve workweeks (defined by the employee's normal workweek) of job-protected, unpaid leave in any twelve month period for certain family and medical reasons. The twelve-month period is a rolling period measured backward from the date an employee uses any FMLA leave. At the conclusion of a leave of absence under the FMLA, the employee will be restored to the position the employee held when the leave began or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment, provided the employee returns to work immediately following such leave.

**Eligibility** – To be eligible for an unpaid leave under FMLA, an employee must meet the following requirements:

- The employee must have worked for the Town for at least twelve months before the leave request (these need not be consecutive);
- The employee must have worked for the Town for at least 1,250 hours during the previous twelve months prior to the date the leave commences; and
- The employee must work at or report to a worksite which has fifty or more employees or is within seventy-five miles of worksites that taken together have a total of fifty or more employees.

Eligible employees will be afforded leave under **FMLA** under the following circumstances:

- Upon the birth of the employee's child and to care for the newborn child;
- Upon the placement of a child with the employee for adoption or foster care and to care for the newly placed child;
- To care for the employee's spouse, son, daughter or parent who has a serious health condition; and
- Because of the employee's own serious health condition which makes the employee unable to perform one or more of the essential functions of his or her job.

**Return to Work** – At the conclusion of the leave, the employee, provided that the employee returns to work immediately following such leave, will be restored to the position he or she held when the leave began, or an equivalent position with equivalent benefits, pay and working conditions.

## 606 *Family and Medical Leave Policy*

**Policy Statement** – It is the policy of the Town of Canandaigua to grant a full-time employee a leave of absence without pay for a period of up to twelve weeks, under certain circumstances. 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.

**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, and the *Rules for the Classified Civil Service of Ontario County*.

**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 covers 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 Canandaigua 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** – husband or wife as defined or recognized under State law for purpose of marriage;
  - \* **Parent** – biological parent or an individual who stands or stood in *loco parentis* to an employee when the employee was a son or daughter as defined in 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, in writing, to the Department Head at least thirty calendar days prior to the commencement date of the unpaid leave. The employee and Department Head must complete the Leave of Absence Request Form and forward the completed form to the Town Manager 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, verbal notice to the employer will be sufficient.

**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 must 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, 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 Canandaigua 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 be taken 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 unpaid 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 Canandaigua.

**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 and short-term disability benefits (if applicable), 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 and/or short-term disability benefits 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 Ontario 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 paid or unpaid leave of absence, 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 authorized leave of absence period has expired, 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 Ontario 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. 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 Manager.
- **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.

## **607      *Leave for Cancer Screening***

**Policy** – The Town of Canandaigua 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 sick, vacation, personal, 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. sick, personal, vacation, compensatory) will apply; there is no requirement in such a case to provide specific documentation regarding cancer screening.

## **608      *Leave for Blood Donations***

**Policy** –The Town of Canandaigua complies with New York State Labor Law Section §202-j which entitles Town employees who work an average of twenty hours or more per week to a leave of absence for the purpose of making a blood donation. 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 this same purpose.

**Allowance** – An eligible 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.

**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.



## 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.

**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.

### 702 *Overtime*

**Authorization** – A Department Head 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 Department Head or supervisor before working additional hours. An employee is not entitled to overtime pay for additional hours worked without proper authorization.

**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.

**Non-Exempt Employees** – A 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.

**Credit for Paid Leave** – Personal leave, vacation leave, sick leave, bereavement leave and holidays will be included as time worked for the purpose of computing overtime. Jury duty leave, military leave, and leave for cancer screening, blood donations, and use of compensatory time off will not be included as time worked for the purpose of computing overtime.

**Compensatory Time** – With pre-authorization from the Department Head, 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. Use of compensatory time off requires approval in advance by the Department Head.

An employee may accumulate up to forty hours in compensatory time credits. In the event an employee accrues more than forty hours in compensatory time credits, the employee must either use the excess compensatory leave credits within the pay-period in which they are earned or receive cash payment for such time. An employee must use all compensatory time 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.

### **703 Call-In Pay**

**Compensation** – In the event an employee is called in to work prior to the employee’s regular starting time, or after the employee’s regular quitting time and the employee has left the work-site, the employee will be allowed to work at least two hours or, if not allowed to work at least two hours, will receive an amount equal to the amount of time short of the two hours multiplied by one and one-half times the employee’s regular rate of pay.

### **704 Pay Period and Check Distribution**

**Payroll Period** – The payroll period will begin on Sunday at 12:01 a.m. and end fourteen calendar days later on Saturday at 12:00 midnight. An employee’s paycheck will be based on the amount earned during the preceding payroll period. Certain part-time employees may be paid quarterly as established by the Town Board.

**Payday** – Paychecks will be issued on the Wednesday following the end of the payroll period. In the event the payday is a designated holiday, paychecks will be distributed on the previous day.

**Distribution** – The designated Personnel Officer will deliver paychecks to the Department Heads for further distribution to employees.

**Direct Deposit** – The Town provides a direct deposit option for employees. If requested, an employee’s 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 designated Personnel Officer

**Authorized Check Release** – The Department Head will not release a paycheck to anyone other than the employee unless the employee has submitted a signed, written authorization with the designated Personnel Officer.

### **705 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.

## **706 Deferred Compensation Plan**

**Summary** – The Town of Canandaigua has established a Deferred Compensation Plan whereby a portion of an employee’s salary may be voluntarily withheld and invested. The money saved is paid out to the employee at a later date, generally during retirement years. Neither the deferred amount nor earnings on investments are subject to current Federal and State Income Taxes. Taxes become payable when the deferred income plus earnings are distributed to the employee, presumably at retirement when the tax bracket may be lower. A description of the plan may be obtained from the Town Manager’s Office.

## **707 Employee Recognition Program**

**Program Overview** – This program aims to recognize full time employees for continuous employment with the Town of Canandaigua. Employees will be recognized upon reaching employment milestones of 5, 10, 15, 20, 25, 30, and successive 5 year increments until employment is ceased. For the purpose of this program, a full time employee shall be defined as a person consistently working a minimum of 40 hours per week in a permanent position approved by the Town Board. The Town Board may choose to add additional employees to the eligible list such as Board members, Committee members, and part-time employees.

### **Procedures –**

- A. Upon reaching an employment milestone, the employee will be notified by the Town Manager or designee. The Town Manager or designee will work with the HR & Payroll Coordinator to arrange for the recognition ceremony and awards.
- B. Full-time and Part-time employees who reach a milestone event will receive a certificate and an award. The award will be based upon the following schedule which may require Town Board review and modification in future years. Elected Officials, Board Members, and Committee Members are not eligible for a monetary award.
  - 5 years - \$25
  - 10 years - \$50
  - 15 years - \$75
  - 20 years - \$100
  - 25 years - \$200
  - 30 years and all future 5 year milestones - \$300
- C. No later than April 1 of each year, a ceremony will be held to honor the recipients of milestone achievements.
- D. This program will be based upon an employee’s status as of January 1, 2015 and continue for each year after that. The first awards will be distributed prior to April 1, 2016.
- E. In the event employment is severed and the person is re-employed by the Town of Canandaigua, the years when the employee was not employed by the Town of Canandaigua will not add to the length of service. Upon re-employment, the years of service shall add to the existing years of service.

## 800 EMPLOYEE BENEFITS

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### 801 Holidays

**Designated Holidays** – The Town will observe the following holidays along with any other days so designated by the Town Board.

- New Year’s Day
- Martin Luther King Day
- Presidents’ Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans’ Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Day

**Floating Holidays** – In addition to the above Designated Holidays, a full-time employee will be credited with three (3) floating holidays each January 1. An employee must receive prior approval from the employee’s Department Head to take a floating holiday. Floating holidays must be used in no less than 1 hour increments. Any floating holidays not used as of December 31 cannot be carried over into the next year and will be cancelled. An employee whose employment with the Town is terminated for any reason, including retirement, will not receive cash payment for unused floating holidays.

Floating holidays will be credited to newly hired full-time employees based upon date of hire, as follows:

- Hired during 1<sup>st</sup> calendar quarter: 2 floating holidays
- Hired during 2<sup>nd</sup> calendar quarter: 1 floating holiday
- Hired during 3<sup>rd</sup> calendar quarter: 0 floating holiday
- Hired during 4<sup>th</sup> calendar quarter: 0 floating holidays

**Holiday Pay** – A full-time employee who does not work on a designated holiday or who uses a floating holiday will be paid for the day, eight (8) hours, at the employee’s regular daily rate of pay. A part-time, temporary or seasonal employee is not eligible for Holiday Pay.

**Assigned to Work on a Holiday** – A full-time employee who works on a designated holiday will be paid one and one-half times the employee’s regular rate of pay for all hours actually worked in addition to Holiday 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.

**Holiday Occurs on Days Off** – In the event a designated holiday occurs on a day for which a full-time employee was not scheduled to work, holiday for such employee will be observed either on the preceding scheduled day of work or on the succeeding day of work, as the case may be. For example, normally if a holiday occurs on a Saturday, the employee would observe the holiday on the preceding Friday; however, during a compressed workweek, if the holiday occurs on either a Friday or a Saturday, the employee would observe the holiday on the preceding Thursday.

**Holiday Pay Eligibility** – An 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. For example, if the designated holiday is a Monday and the employee is scheduled to work the previous Friday and the following Tuesday, the employee must actually work that Friday and Tuesday to receive Holiday Pay for the Monday, unless the employee uses a vacation day, personal day, compensatory time, or a floating holiday. The use of sick time may be used the day before or after a holiday as long as the employee is on an approved sick leave of absence for three or more working days.

## 802 Vacation Leave

### Eligibility –

Full-Time Employees – A full-time employee is eligible for paid vacation leave in accordance with this policy.

Part-Time Employees with a regular work schedule of 20 or more hours per week – A part-time employee with a regular work schedule of 20 or more hours per week shall receive one week of paid vacation leave annually after the completion of one year of employment. The one week granted shall be equal to the average number of hours the employee worked per week in the preceding year, and will be credited on the employee's anniversary date of hire. Vacation leave credits can only be used in a minimum of 4 hours and 1 hour increments thereafter for each day and cannot carry over vacation leave into the following anniversary year.

Temporary and Seasonal Employees and Part-time Employees with a regular work schedule of less than 20 hours per week – Such employees are not eligible for paid vacation leave but may be allowed to take time-off without pay provided the employee has prior approval from the Department Head.

**Allowance** – A full-time employee will earn paid vacation leave in accordance with the following vacation schedule. An employee may take vacation leave only after it has been credited. The employee will be credited on the first day of January of each year for the leave earned in the previous year.\* Employees hired May 20, 2024 and after will be credited on their anniversary date.

For example, an employee who has completed four years of service on February 26<sup>th</sup> will be awarded ninety-six hours of paid vacation leave on the following January 1<sup>st</sup>; an employee who has completed 14 years of service on October 20<sup>th</sup> will receive one- hundred and sixty hours of paid vacation leave on the following January 1<sup>st</sup>.

Years of Service	Number of Days
1-4 years	15 Days
5-14 Years	20 Days
15-24 Years	25 Days
25+ Years	30 Days

\*continuous service

**Continuous Service** – Continuous Service 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. Vacation is earned only for monthly pay periods during which an employee is in full pay status for at least fifteen working days during such monthly pay period.

**New Employees** – All new employees Will receive 10 days of leave at the time of hire. This leave is not eligible for carryover or payout.

**Accrual During Leaves of Absence** – An employee will earn vacation leave credits while on a paid leave of absence, but not while on an unpaid leave of absence.

**Accumulation (carry-over)** – An employee may carry over a maximum of 80 hours of vacation credits from one calendar year to the next, which must be used within 18 months from the time of accrual. Any carried-over vacation leave credits remaining unused after the 18 months will be cancelled.

**Scheduling** – An employee must receive prior approval from the employee's Department Head to take vacation leave. The request must be submitted, in writing, to the employee's Department Head. The Department Head will have total discretion in the approval of vacation leave. Vacation leave credits can only be used in a minimum of 4 hours and 1 hour increments thereafter for each day.

**Vacation Buy-Back** – A FLSA non-exempt full-time employee may receive cash payment for unused vacation leave credits, up to a maximum of 80 hours each year, to which such employee is properly entitled at the employee's then current rate of pay. To be eligible for the vacation buy-back, such employee must have used, or be scheduled to use, at least two weeks of the vacation leave earned in that calendar year. The employee must submit the request by November 15<sup>th</sup> on the proper form. Only one buy-back will be allowed in a given year. Payment will be made between December 1st and December 15th. Under extenuating circumstances, the Town Board can waive the requirements in order for an employee to receive their Vacation Buy-Back on a case by case basis.

**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.

**Termination 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. For an employee who is retiring, this will include prorated vacation leave (from January 1 to the date of retirement) for the calendar year in which the retirement occurs. 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. An employee who has not completed their 52-week probationary period will not be entitled to a payout for any unused vacation leave.

## 803 Sick Leave

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

**Allowance** – A full-time employee will be credited with eight hours of paid sick leave each month. An employee may take sick leave only after it has been credited. The employee will be credited on the first day of the month after it has been earned.

**New Employees** – A newly hired employee will be credited with eight hours of sick leave the first of the month after they are hired.

**Accrual During Leaves of Absence** – An employee will be credited with sick leave credits while on a paid leave of absence, but not while on an unpaid leave of absence.

**Accumulation** – An employee may accumulate sick leave credits to a maximum of one thousand five hundred hours. The employee will be credited on the first day of the month after it has been earned. A FLSA non-exempt full-time employee who was hired prior to September 22, 2014 and who has one thousand five hundred hours of sick leave credits will be credited with eight hours of paid vacation leave each month in lieu of paid sick leave. (This provision for vacation leave in lieu of sick leave does not apply to any employee hired after September 22, 2014.)

**Reporting of Absence** – In the event an employee must take sick leave, the employee must notify the Department Head before the employee's scheduled reporting time and disclose the cause of the absence. This procedure must be followed to receive sick leave pay.

**Proper Use of Sick Leave** – Sick leave is provided to protect an employee against financial hardship during an illness or injury. Sick leave is an insurance benefit against financial loss not a leave benefit to which the employee is automatically entitled. An employee may use sick leave credits for personal illness or injury that inhibits the employee's work or for medical and dental appointments which cannot be scheduled during non-work hours. Sick leave credits may not be used in increments of less than 15 minutes.

**Family Sick Leave** – An employee may use sick leave credits for family illness or injury only if the employee must provide direct care to an immediate family member. The employee may use up to forty hours of sick leave credits for family sick leave which will be subtracted from the employee's accumulated sick leave credits. In the event the employee must be absent from work beyond the forty hours, the employee may apply for leave under Section 607 (Family and Medical Leave Policy) of this Handbook. For purpose of family sick leave, "immediate family member" will mean the employee's parent, spouse or child, including step-child and foster child.

**Abuse of Sick Leave** – An employee who, after investigation, is found to have demonstrated a pattern of sick leave abuse or to have used an excess amount of sick leave or falsifies supporting documentation, will be subject to disciplinary action.

**Medical Verification** – The Town will require medical verification of an employee's absence if the Town perceives the employee is abusing sick leave, or has used an excess amount of sick leave, 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.

**Extended Paid Sick Leave** – Under certain circumstances, if an eligible employee is unable to work for an extended period of time due to the employee's own serious health condition, the Town may provide extended paid sick leave of up to thirty days after all other paid leave (sick, vacation, personal) has been exhausted. The intent of this policy is to provide additional protection for an employee facing a potentially catastrophic event. The following conditions must be met in order for such extended paid sick leave to be considered for approval:

- The employee must have completed at least five years of continuous full-time service with the Town.
- The employee must have a minimum of forty hours of accumulated sick leave credits available to use during the period of absence necessitated by the serious health condition.
- Medical documentation must be provided that verifies the existence of the serious health condition. The definition of "serious health condition" and criteria for "Medical Certification" as set forth in Section 607 of this Employee Handbook will apply for purposes of this policy.

A request for extended sick leave must first be submitted in writing to the employee's Department Head, who will in turn present the request to the Town Board. The Town Board has the sole authority to approve granting of extended sick leave.

**Separation of Employment** – An employee whose employment with the Town is terminated for any reason, including retirement, will not receive cash payment for unused sick leave.

**Retirement Credit** – The Town Board has elected to provide §41(j) of the NYS Retirement and Social Security Law and allows credit for up to one hundred sixty-five (165) days of accumulated sick leave at the time of retirement. To be eligible, an employee must retire directly from covered employment or within one year of leaving covered employment. The additional service credit is determined by dividing the total unused, unpaid sick leave days (not to exceed 165 days) by 260. For example: 130 sick leave days ÷ 260 = .50 or 6 months additional service credit.



## **804 Donation of Sick Leave**

### **Policy Statement**

The Town of Canandaigua recognizes that employees may have a family emergency or a personal crisis that causes a severe impact to them resulting in a need for additional time off in excess of their available sick time. To address this need all eligible employees will be allowed to donate sick time from their unused balance to their co-workers in need in accordance with the policy outlined below. This policy is strictly voluntary. The Town will not advertise any employee's eligibility for donated time. It is the responsibility of the potential donor, rather than the recipient, to initiate the donation process. Potential recipients and their friends are expected to use discretion in soliciting donations. No employee should feel pressure to donate time to a co-worker.

### **Eligibility**

Recipient of Donated Leave – An employee must meet the following criteria to receive donated leave credits:

1. Is eligible to earn leave credits and subject to attendance policies.
2. Has completed at least one (1) year of full-time Town of Canandaigua employment.
3. Has exhausted or is scheduled to exhaust all accrued leave.
4. Must have a situation that meets the following criteria:
  - a. Serious Health Condition
    - i. An employee's own serious health condition which makes the employee unable to perform one or more of the essential functions of his or her job.
    - ii. A period of incapacity or treatment for such incapacity due to a chronic serious health condition.
    - iii. 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.
    - iv. Critical or catastrophic illness or injury of the employee or an immediate family member that poses a threat to life and/or requires inpatient or hospice health care. Immediate family member is defined as spouse, domestic partner, child, parent or other relationship in which the employee is the legal guardian or sole caretaker.
  - b. Other Personal Crisis
    - i. A personal crisis is of a severe nature that directly impacts the employee. This may include a natural disaster impacting the employee's primary residence such as a fire or severe storm.

Donor of Donated Leave – For an employee to donate accrued sick leave days, an employee must meet the following criteria:

1. Be employed full-time in any Town of Canandaigua department.

2. Employees who donate time must have sufficient time in their balance and will not be permitted to exhaust their balances due to the fact that they may experience their own personal need for time off. Employees cannot borrow against future sick time to donate. No employee may donate any sick time within 30 days of that employee's scheduled retirement or resignation date, or at any time when the employee is suspended from work.
3. Has a minimum balance of at least ten (10) sick days after making the donation.
4. An employee who is currently on an approved leave of absence or who has received notice of termination of employment cannot donate sick time.

## **Guidelines**

Department Heads should verify Recipient's eligibility with satisfactory documentation. Donation maximum is 8 hours per donor. Employees who receive donated sick time may receive no more than 80 hours (2 weeks) within a rolling 12 month period. The Town Board may choose to authorize employees to receive an additional two weeks with the provision that each employee can donate a maximum of 16 hours.

If the recipient employee has available sick time or any other paid time off in their balance, this time will be used prior to any donated sick time. Donated sick time may only be used for time off related to the approved request. Sick time donated that is in excess of the time off needed will be returned to the donor in the order of last to first.

The Recipient receiving leave donations from other employees will be designated as on 'Donated Leave' and is deemed to be on leave without pay status for attendance and leave purposes. The employee will not accrue sick time.

While on Donated Leave, the Recipient continues to pay their health insurance premium, retirement service credits reported and other payroll deductions withheld from his/her paycheck as long as the paycheck is of an amount sufficient to cover these deductions.

When a Recipient does not have enough donated days to cover the entire payroll period, the Recipient will be on leave without pay and subject to the personnel policies governing that status, including responsibility for health insurance premiums.

## **Procedure**

Employees who wish to donate sick time to a co-worker in need must complete a Donation of Sick Time Request Form and return it to the Personnel Officer.

## **Approval**

Requests for donations of sick time must be approved by the Town Manager, the employee's immediate supervisor and the Personnel Office of the Town of Canandaigua.

## **805 Personal Leave**

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

**Allowance** – A full-time employee will be credited with sixteen hours of paid personal leave each year. An employee may take personal leave only after it has been credited. The employee will be credited on the first day of January of each year.

**New Employees** – An employee hired after the first day of January in any given year will be credited with paid personal leave prorated by the number of months worked in the first calendar year of employment. Such employee will be credited on the first day of January for the personal leave earned in the first calendar year. Thereafter, the employee will be credited with sixteen hours of paid personal leave days on each subsequent January 1.

For example, an employee who is hired on March 1 will be awarded thirteen and three-tenths hours of paid personal leave on the following January 1; an employee who is hired on October 1<sup>st</sup> will be awarded four hours of paid personal leave on the following January 1.

**Accumulation** – An employee may not accumulate personal leave credits. Any personal leave credits remaining unused at close of business on the last day of the calendar year will be canceled.

**Proper Use of Personal Leave** – An employee may use personal leave credits to conduct personal business which cannot be conducted outside of normal working hours and for personal emergencies. Personal leave credits may not be used in increments of less than Fifteen minutes.

**Scheduling** – An employee must receive prior approval from the employee's Department Head to take personal leave. The request must be submitted, in writing, to the employee's Department Head. The Department Head will have total discretion in the approval of personal leave.

**Separation of Employment** – An employee who resigns, retires, or is laid off will receive cash payment for unused personal 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 personal leave.

## **806 Disclosure of Insurance Benefits**

**Summary** – The following is a brief description of the insurance benefits 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 Town Manager 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 Town Manager's Office.

**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.

**Changes in Benefits** – Any benefit offered by the Town to employees or Elected Officials is subject to change by resolution of the Town Board.

**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 Town Manager's Office 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 Town Manager's Office 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 or change 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.

## **807 Medical / Dental Insurance**

**Eligibility** – The Town will contribute towards the premium cost of individual or family medical and dental insurance coverage, as the case may be, for each employee working an average of 30 hours or more per week and the following Elected Officials (referred to as “eligible Elected Officials” for purposes of Sections 806, 807, 808 and 809 of this Handbook): Town Clerk and Superintendent of Highways. A part-time, temporary or seasonal employee is not eligible for contribution from the Town for medical insurance coverage.

**Part-Time Elected Officials and Part-Time Permanent Employees** – A part time elected official including the Town Supervisor, Town Justices, and Town Board members as well as permanent part-time employees regularly scheduled to work 20 or more hours per week are eligible to participate in the Town’s health insurance plans at no cost to the Town.

**Voluntary Benefits** - The Town makes available to employees certain voluntary benefits, but at no time contributes to the premium of those benefits. All employees of the Town are eligible to participate in voluntary benefits at no cost to the Town given the individual pays for the full premium cost.

**Coverage** – The Town will make available major medical, hospital, surgical and dental insurance to those deemed as eligible above. Coverage will begin on the employee’s first day of employment (first day of office for an Elected Official) provided all eligibility requirements of the insurance plan are met. Details regarding the type of plan(s) and coverage may be obtained from the Town Manager’s Office.

**Premium Payment** – The amount of the premium an employee or Elected Official is required to contribute is established by resolution of the Town Board. This may be stated as a specific dollar amount or as a percentage of the premium cost. Factors such as date of hire or commencement of office, and type of coverage may be considered when determining the required contribution. Contribution amounts are subject to change by resolution of the Town Board. Full details are available from the Town Manager’s Office.

**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.

## **808 Medical Insurance Buy-out**

**Eligibility** – An employee or eligible Elected Official (see section 805A) who is eligible for medical insurance coverage made available through the Town may receive a cash buy-out in lieu of receiving medical insurance benefits. To be eligible for the medical insurance buy-out, the employee or eligible Elected Official must provide documentation of comparable medical health insurance coverage in a manner and form to be determined by the Town and sign an appropriate waiver of health insurance coverage and waiver of liability to the Town. The medical insurance buyout is not applicable in a situation in which two employees are married or in a family relationship that makes both eligible for coverage under the same medical insurance plan.

**Amount of Buy-out** – The amount of the buy-out an employee or Elected Official is eligible to receive is established by resolution of the Town Board.

**Method and Form of Payment** – Partial payment of the buy-out will be made in the employee's or Elected Official's regular biweekly paycheck for each pay-period the employee or Elected Official is eligible for the buy-out. This payment is in addition to the compensation and/or salary to which the employee or Elected Official is otherwise entitled, and will be treated as part of gross income and will be subject to the appropriate withholding for income and payroll tax purposes.

**Reinstatement** – In the event the employee or eligible Elected Official loses coverage under the alternate insurance plan, the employee or Elected Official may resume coverage under a medical insurance plan made available through the Town. Coverage will begin on the first of the month immediately following the request for reinstatement, provided such request is made at least five business days prior to the first of the month and all eligibility requirements of the insurance plan are met. Upon reinstatement, the employee or eligible Elected Official must refund the portion of any payment received for the period in which the Town will subsequently provide coverage.

## **809 Retiree Medical Benefits**

*(Revised 12/01/09)*

**Eligibility** – An eligible employee or eligible Elected Official (see Section 805) who retires from the Town is eligible for retiree medical benefits accordance with this policy. The retiree must have applied for and been granted a bona-fide retirement benefit from the New York State Employees' Retirement System. A non-eligible Elected Official, part-time, temporary or seasonal employee is not eligible for retiree medical benefits.

*(Requirement for 8 years of continuous service eliminated by Town Board Resolution on 12/01/09)*

**Coverage** – The Town currently offers medical insurance coverage to an eligible full-time employee or Elected Official who retires from the Town and part-time or elected officials at no cost to the Town. Coverage is also currently offered for eligible dependents (includes spouse) if they were covered under the Town's medical insurance plan at the employee's date of retirement. In the event the retiree predeceases the dependents, 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.

**Premium Payment** – An eligible retiree (and dependents) who elects to participate in a medical insurance plan offered by the Town must pay the full premium cost of the insurance coverage. The premium payment must be made on or before the 1<sup>st</sup> day of each month. All retirees and dependents currently opting for retiree medical benefits shall be notified in writing of this requirement.

**Changes to Retiree Medical Benefits** – The Town Board may, at its discretion, change the Retiree Medical Benefits provisions at any time, including, but not limited to, amount of payment, eligibility, and duration of coverage. The Town Board will provide written notice of any such changes.

## **810 Continuation of Health Insurance Benefits (COBRA/NYS Continuation Coverage)**

**Summary** – The 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.

**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.

**Change in Beneficiary Status** – An employee or elected official must notify the Town 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 Town Manager’s Office 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 Town Manager’s Office within the time indicated.** If the required forms or premium payments are not received at the time specified, medical insurance coverage will cease.

## **811 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 Department Head immediately after the occurrence of the injury. The Department Head will notify the Town Manager's Office who will complete and submit the required forms.

**Use of Sick Leave Credits** – An employee may draw from the employee's sick leave 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.

## **812 Short –Term Disability Benefits**

**Eligibility** – All employees are provided with short-term disability coverage in accordance with this policy. This benefit is to supplement loss of time from work due to a qualified non-job related illness or injury.

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

**Disability Payments** – Disability payments will be in accordance with the terms of the policy. The duration of disability benefits is dependent upon a physician's certification and consistent with the terms of the policy. There may be a waiting period before an employee can become eligible for disability payments. Full details regarding the policy currently in effect are available from Town Manager's Office.

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

**Reporting of Illness or Injury** – The employee must submit a written report of the illness or injury on the proper application form to the employee's Department Head and the Town Manager's Office within twenty-four hours of the occurrence. The Town Manager's Office will provide the employee with the necessary forms. Proper medical certification will be required and must be submitted with the application form.

**Use of Sick Leave Credits** – An employee may draw from the employee's sick leave credits in conjunction with disability 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.

## **813 Unemployment Benefits**

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

## **814 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.

## **815 Clothing Allowance**

**Issuance** – The Town may provide an employee with required uniforms at no expense to the employee.

## **816 Education Assistance**

**Eligible Expenses** – Upon proper authorization and approval of the Town Board, a full-time employee who has completed at least one year of continuous employment will be reimbursed for books and tuition for an amount up to four-hundred dollars (\$400) per calendar year. Each course of study must be career related and be pre-approved by the Town Board. To receive reimbursement for a given course, the employee must successfully pass the course.

**Employment Commitment** – An employee who receives reimbursement for education must sign an agreement to work for the Town for at least twelve calendar months and to repay the Town in the event the employee were to voluntarily leave employment prior to completing the twelve months.

## **817 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. An employee is eligible for service retirement benefits after completion of the required minimum period of creditable public sector service (either five or ten years depending on tier.)

**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
- The annual compensation for the position is less than the State's minimum wage multiplied by 2,000 hours; or
- Duration of employment for less than one year or employment on less than a 12 month per year basis; or
- The position is either provisional or temporary under Civil Service Law.

**Optional Membership** – An employee who is not mandated to join may join the retirement system. Such employee will be informed, in writing, that the employee may join the Retirement System and will acknowledge receipt of such notice by signing a copy thereof and returning it to the Town Manager's Office. If the employee elects to join the retirement System, the employee must complete the application form and return it to the Town Manager's Office.

**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.

## **818 Volunteer Firefighters**

At the discretion of the Department head, volunteer firefighters who are active members of organizations serving the Canandaigua Fire Protection District will be allowed to report to a fire during work hours without having to take the time unpaid or having to utilize their paid time off. The Town will compensate the employee for the hours spent responding to an emergency during their normal work schedule.

The Department Head shall enjoy the discretion, up to a maximum of two (2) times per year, to permit an Employee to report for a half day (utilizing either paid time off, or taking the time unpaid) following a fire or emergency call received after 12:01 a.m.

### **819 *Employee Assistance Program***

The Town of Canandaigua offers an Employee Assistance Program to all employees. Coverage will begin on the employee's first day of employment. The Town will pay the full premium for all employees. The Employee Assistance Program provides benefits such as counseling, coaching and online resources. More information can be found in the Town Manager's Office.

## 900 COMPLIANCE POLICIES

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### 901 *Equal Employment Opportunity*

**Policy Statement** – The Town of Canandaigua 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, 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 Department Head. In the event the employee is unable to discuss this matter with the Department Head, the complaint should be reported in writing to the Town Manager or any member of the Town Board. All complaints of discrimination will be investigated discreetly and promptly. An employee who reports discrimination will not suffer adverse employment consequences as a result of making the complaint.

**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 Canandaigua 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 Canandaigua 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 Department Head. In the event the employee is unable to discuss this matter with the Department Head, the complaint should be reported in writing to the Town Manager 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 Canandaigua 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 Canandaigua 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, supervisors, and Department Heads, 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 sexual harassment of Town employees in the workplace.

**Supervisory Responsibility** – Department Heads and supervisory personnel 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, or national origin either directly or indirectly to another person. 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** – Unwelcome sexual advances, requests for sexual favors, physical conduct and/or exposure to sexual materials or comments constitute sexual harassment when submission to rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating hostile or offensive work environment. 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 unreasonable 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 Canandaigua 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 Department Head and/or Town Manager as soon as possible after their occurrence. If the employee's Department Head is believed to be involved in the incident, the report should be made directly to the Town Manager. If the Town Manager 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, their Department Head, the Town Manager, or any member of the Town Board. An employee who works outside of normal hours of operation is encouraged to contact their supervisor, their Department Head, the Town Manager, or any member of the Town Board at home if these individuals do not work during the employee's shift.

**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 Manager 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 Canandaigua Employee Handbook. 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. 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.

**Prohibition Against Retaliation** – Retaliation against any employee who brings a written or verbal complaint of discrimination or harassment 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 harassment 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 Canandaigua 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” throughout the remainder of this program manual) 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 Canandaigua has developed a Workplace Violence Prevention Program. As a part of this program, the Town conducted a comprehensive risk evaluation of the entire workplace. The Town will conduct annual reviews to identify risk factors that may increase the likelihood of workplace violence and implement appropriate 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 Manager’s Office.

**Prohibited Conduct** – The Town will not tolerate ANY acts of violence in the workplace, including but not limited to, physical assault (e.g., hitting, pushing), threatening, intimidating, or aggressive behavior, or verbal abuse or harassment. Employees are prohibited from possessing firearms or weapons (e.g., guns, knives (except for pocket knives used in the normal course of the employee’s job), explosives, and other items with the potential to inflict harm) in the workplace, even if the employee is licensed to carry the weapon. The only exceptions are law enforcement and security personnel. An employee who has knowledge that a coworker or visitor possesses a weapon in a Town building or in a Town owned vehicle must report this to a Department Head or 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 Department Head as outlined in Section 2 (Employee Responsibility) of Workplace Violence Prevention Program manual.

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

**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 Canandaigua 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 Department Head 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 Department Head 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 Canandaigua 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 morale, 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. Town policy also prohibits smoking anywhere at any time while on the grounds of the Town Hall and Highway Department facilities, as well as any other Town properties.

# 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 responsibility of the employee to fully 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 Department Head immediately;
- If the accident appears serious, call an ambulance; 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 Department Head who must complete an *Employer's Report of Injury Form (C-2)*. This form must be submitted to the Town Manager's Office within six workdays of the accident.
- 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 Department Head who will in turn notify the Town Manager's Office. The Department Head must complete a *Supervisor's Report of Incident Form*.
- The Town Manager's Office and the Highway Department must 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 Canandaigua 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 Department Head.
- **Container Labels** – All chemicals on a work-site must be stored in the original or approved containers with the proper label attached. The Department Head 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 not properly labeled must be given to the Department Head 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 employee's Department Head 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



Department Head.

**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)** – Depending on job duties, an employee must routinely wear protective devices, such as gloves and safety glasses, as directed by the supervisor. An employee who is required to wear special safety equipment as directed by the supervisor must comply with such request.

**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 Department Head 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.

## 1100 COMMUNICATION PROCEDURES

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### **1101 Bulletin Board**

**Summary** – Bulletin boards are located throughout Town buildings for communicating information to employees. An employee should check the bulletin boards frequently to keep informed on changes in employment matters and other items of interest.

**Posting of Material** – All material to be posted on bulletin boards, including memos and announcements, must have the prior approval of the appropriate Department Head.

### **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 forward the communication to the appropriate Department Head. The term “communication” shall refer to both written and verbal communications, and includes, but is not limited to, memoranda, faxes, messages, text 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 or Department Head of any suggestions which may be valuable to the Town’s productivity and success. All suggestions will be carefully reviewed and 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 Disclosure of Information and Media Relations**

*(Adopted by resolution of the Town Board on 4/7/09)*

**Policy Statement** – The Town 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 may contain sensitive and confidential information, for example, information regarding matters under consideration for implementation by the Town, the acquisition or sale of land, and information about Municipal Officers and other public officials, employees, consultants, Town residents, applicants, vendors and other individuals or entities who do business with the Town, on behalf of the Town and/or its residents (“Town Information”).

Town Information cannot be photocopied, duplicated, scanned, emailed, mailed, discussed, disseminated or otherwise disclosed to any individual or entity, by any Municipal Officer (including but not limited to any board or committee member), employee or consultant except as may be required by the Freedom of Information Law (FOIL) or any other applicable laws and regulations. All Town Information shall be disseminated and disclosed to Municipal Officers, employees and

consultants on a "need to know" basis. Municipal Officers, employees and consultants are prohibited from discussing or otherwise disclosing Town Information to other Municipal Officers, employees and consultants who do not have a legitimate Town business reason to know or possess such information. Town Information shall not under any circumstances be discussed with or disclosed to family members or friends by any Municipal Officer, employee or consultant. As stated in more detail below in the "Responsibility for Security of Confidential Information" section, any Town Information to be disclosed pursuant to FOIL may be disclosed only by the duly appointed Records Management Officer.

**Responsibility for Security of Confidential Information** – All Municipal Officers, employees and consultants, including but not limited to elected officials, board members, committee members, Department Heads, consultants and employees are responsible for maintaining the security of all Town Information, including any documents, records and other information within their department operations.

Any request from any person or entity for disclosure of information under the Freedom of Information Law (FOIL) or any other applicable laws or regulations must be submitted to the Town's Records Management Officer. Town Information that has not been officially requested under FOIL from the Records Management Officer shall not be disclosed to any person or entity in any format by any Municipal Officer or Employee. Town Information that is deemed confidential by applicable laws and regulations shall not be disclosed absent a prior, written opinion from the attorney for the Town that such disclosure is permitted as a matter of law.

**Employee Personal Information** – Municipal Officers, employees and consultants shall not provide a caller or visitor with confidential information regarding any Municipal Officer, employee, Town Legal Counsel or consultant, including home addresses and personal telephone numbers. The caller/visitor's name and telephone number should be recorded and a message forwarded to the intended recipient for response.

**Media Relations Officer** – The Town Board may designate at any time one or more individuals to act as a Media Relations Officer for the Town. Such person(s) shall be the sole conduit for any and all official communications in any form to the media regarding Town operations, business and affairs. Such person(s) may be a member of the Town Board, an attorney for the Town, or a professional media spokesperson in the sole discretion of the Town Board. All such Media Relations Officers serve at the pleasure of the Town Board and may be removed at any time by majority vote of the Town Board for any reason.

## **1106 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 Manager, 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 another 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 §75-B of NYS 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, Department Heads 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. 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, national origin, marital status, or disability; 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 Department Head. 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 Department Head 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 Department Head, the employee may submit the matter to the Town Manager. 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 Manager will meet with the employee to discuss and attempt to resolve the matter. Within seven working days from the meeting, the Town Manager 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 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.

**Right to Representation** – The employee will not be allowed representation by counsel at the hearing or have the right to summon witnesses.

**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.

**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.

# 1300 EMPLOYEE ACKNOWLEDGMENT FORM

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Detach and place in employee's personnel file.

## TOWN OF CANANDAIGUA

### EMPLOYEE HANDBOOK ACKNOWLEDGMENT

I hereby acknowledge that I have received a copy of the *Town of Canandaigua Employee Handbook* outlining the rules, regulations, procedures, practices, work standards, employment classifications, compensation, and benefits of the Town of Canandaigua. I further acknowledge that I have read, or will read the contents of the Employee Handbook and will contact my Department Head or the Town Manager 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 Canandaigua reserves the right to interpret, change or modify any section of the Employee Handbook at any time.

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 Canandaigua.

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Employee name (please print)

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Employee Signature

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Date of Signature