

## Town of Orono Ordinances

### Chapter 28 PERSONNEL<sup>1</sup>

#### ARTICLE I. IN GENERAL

##### Sec. 28-1. Purpose.

The town council, pursuant to section 1.1.3C of the Charter, is authorized to adopt ~~these~~ rules and policies governing the administration of the personnel program. The purpose of ~~these policies~~ a personnel policy handbook is to adopt policies is to facilitate efficient and economical public services and to establish a fair and equitable system of personnel administration in the town government. Pursuant to these goals, the Council is adopting an ordinance to approve the process and administration of a personnel policy handbook ~~this chapter that~~ sets forth policies regulating employment and defines the obligations, rights, privileges and benefits of town employees.

(Ord. No. 95-207, § 1.3.1(A), 12-11-95)

##### Sec. 28-2. Administration.

- (a) ~~The Town Council, pursuant to Charter, appoints the Town Manager to administer the policies and personnel policy handbook for the Town of Orono. These policies shall be administered by the town manager. Amendments to the policies shall be by order of the town council. reviewed at minimum, annually by the Ordinance Review Committee, submitted to the full Council for public hearing, and approved by Council annually after a public hearing. The Town Council may amend the policies in the personnel policy handbook as needed by Council Order, after having provided public notice of such amendments. The town reserves the right to amend the policies personnel policy handbook at any time, in accordance with procedures specified in the Charter. Provisions set forth in the personnel policies are not contractual, but rather are for the guidance of employees of the town. The policies are not to be construed as an employment contract.~~
- (b) ~~Departments may establish supplemental policies and procedures for their departments upon review and approval by the town manager, if not in conflict with the policies as set forth by the town or with any federal or state laws. The personnel policy handbook shall be posted on the town website, made available to any member of the public or staff upon request, and provided to all employees upon hire. All personnel policies, except for personnel policies or procedures unique to a specific department (e.g. departmental training policies), must be included in the Personnel Policy Handbook.~~

(Ord. No. 95-207, § 1.3.1(C), 12-11-95)

~~Editor's note(s): Ordinance No. 95-207, adopted Dec. 11, 1995, and effective Jan. 10, 1996, repealed ch. 28 in its entirety. Formerly, ch. 28 consisted of §§ 28-1—28-8, 28-21—28-26, 28-41—28-44, 28-51—28-54, 28-~~

~~Sec. 28-3. Definitions. The following words and phrases when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.~~

~~§§ 1-2-1—1-2-16 of the 1981 Code and §§ 1-0—6-0 of an ordinance adopted Mar. 11, 1991. Ordinance No. 95-207 provided further for the addition of a new ch. 28. See history note following each section for specific derivation thereof.~~

(1) ~~Employee anniversary date means the date upon which an employee is hired by the town sometimes referred to as date of hire. This date will remain constant unless the employee separates from the~~

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town and is subsequently rehired. The employment anniversary date is used to compute benefits such as vacation leave.

(2) *Position anniversary date* means the date upon which the employee commences performance of a specific position. This date may or may not coincide with the employee's anniversary date. A promotion, demotion or leave of absence without pay may change the position anniversary date. The position anniversary date is used to compute such items as merit steps.

*Appeal* means an application for review of a grievance submitted by an employee to the next level for consideration.

*Applicant* means an individual who has completed and submitted an application for employment in a vacant position the town intends to fill.

*Appointment* means the offer and acceptance of a position of employment either on a regular or temporary basis.

*Class* means all positions sufficiently similar in duties, authority and responsibility which the town has grouped under a common title and applied common standards of selection, transfer, promotion and salary.

*Compensatory time off* means time off from work in lieu of monetary payment for overtime worked as permitted under the Fair Labor Standards Act.

*Demotion* means the movement of an employee from one class to another having a lower maximum rate of pay.

*Department head* means a supervisory, administrative or management level position as designated by the town manager or by Charter or ordinance.

*Discharge* means the separation of a permanent employee for cause.

*Employment (types of)*. See article II of this chapter.

*Immediate family* means the husband, wife, child, stepchild, mother, stepmother, father, stepfather, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law or sister-in-law of the employee.

*Job description* means the written description of a position in the town service prepared by the town consisting of a job title, a general statement of the level of work and of the essential and marginal functions of the job, examples of duties and the desirable qualifications for the job.

*Layoff* means the separation of an employee from town employment because of a reduction in number of employees and/or elimination of positions.

*Leave* means an approved absence from work as provided by these policies.

*Merit step* means a salary increase within the limits of a pay range established for that range.

*Overtime* means authorized time worked by an employee in excess of his total normal working hours.

*Pay plan* means the official pay schedule approved from time to time by the town council assigning a rate of pay to each class or range.

*Position* means any office of employment, whether occupied or vacant, full time, part time or other, consisting of duties and responsibilities assigned to one person by competent authority.

*Promotion* means the movement of an employee other than by reclassification from one range to another range having a higher maximum rate of pay.

*Rejection* means separation of an employee during or at the conclusion of his probationary period.

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~~Suspension means the temporary separation of an employee, with or without pay, for investigatory or disciplinary purposes.~~

~~Termination means the permanent separation of an employee from the service of the town, including rejection, discharge, layoff, resignation or retirement.~~

~~Transfer means the movement of an employee from one position to another position in the same class or to another classification having the same pay range assignment.~~

~~(Ord. No. 95-207, § 1.3.2, 12-11-95)~~

#### **~~Sec. 28-4. Equal opportunity.~~**

- ~~(a) It is the policy of the town to ensure equal employment opportunity for all its employees and appointed representatives. This commitment includes a mandate to promote and afford equal employment opportunity based on ability and fitness to all persons regardless of race, religion, color, creed, national origin, sex, marital status, veteran status, age, physical or mental disability or union affiliation.~~
- ~~(b) The town shall operate within the principles of equal employment opportunity guidelines set forth in applicable federal and state regulations. Furthermore, these rules and regulations, and any supplemental departmental policies and procedures, which include all employment and personnel actions, shall be conducted in a manner which does not discriminate against any person due to that person's race, religion, creed, color, national origin, age, sex, marital status, veteran status, mental or physical disability or union affiliation.~~

~~(Ord. No. 95-207, § 1.3.1(D), 12-11-95)~~

#### **~~Sec. 28-5. Scope.~~**

- ~~(a) These policies shall apply to all town employees, with the exception of:~~

~~Elected officials and members of boards and commissions and other positions to which no compensation is attached;~~

~~The town manager;~~

~~Employees of the school department; and~~

~~Employees covered by a collective bargaining agreement.~~

~~In the event of conflict between these rules and an individual employment contract, the terms of the contract shall prevail.~~

- ~~(b) Despite these exclusions, standardized forms, definitions of terms, procedures (except as to probationary and temporary employees as set forth in section 28-126), as well as certain legal mandates such as equal employment opportunity, worker's compensation, unemployment compensation and safety requirements are intended to apply to all employees, unless inconsistent with a collective bargaining agreement.~~

~~(Ord. No. 95-207, § 1.3.1(B), 12-11-95; Ord. No. 06-09, 1-9-06)~~

#### **~~Secs. 28-6—28-20. Reserved.~~**

## **~~ARTICLE II. EMPLOYMENT CATEGORIES~~**

#### **~~Sec. 28-21. Full-time.~~**

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~~{Full-time employment is} employment in a regularly budgeted position contained in the classification plan (described in article IV) to work a standard workweek consisting of from 35 to 40 hours on a continuing and indefinite basis. Full-time employees are entitled to all benefits for which they satisfy the specific eligibility criteria. (Ord. No. 95-207, § 1.3.3(A), 12-11-95)~~

**~~Sec. 28-22. Part-time:~~**

~~{Part-time employment is} employment in a regularly budgeted position designated as part-time to work less than the standard workweek, but on a continuing and indefinite basis as above. To be considered a part-time employee, an individual must anticipate being paid for a minimum of 1,040 hours per fiscal year. Part-time employees are entitled to a pro-rata share of vacation leave, certain retirement benefits and other benefits required by law, including worker's compensation and unemployment compensation. For those whom the town expects to work less than 1,040 hours per fiscal year, there shall be no benefits other than those required by law. (Ord. No. 95-207, § 1.3.3(B), 12-11-95)~~

**~~Sec. 28-23. Contract:~~**

~~{Contract employment is} employment under a personal services contract between the town and an individual. Contract employees receive salaries and benefits as negotiated and stipulated in each contract and are covered by these rules and regulations with regard to those areas not specifically addressed in the contract. Contract employment is generally reserved for the town manager and department heads. (Ord. No. 95-207, § 1.3.3(C), 12-11-95)~~

**~~Sec. 28-24. Temporary:~~**

~~{Temporary employment is} employment (a) on an intermittent basis, including on-call employees who work no regularly assigned shift or hours; or (b) for a workweek or less on a regular basis but for a definite limited period of time, usually not to exceed six consecutive months, with extensions that may be granted by the town manager for up to three months. [Temporary employment] includes appointment to a position in an industry designated by the state as a seasonal industry and student employment. Temporary employees are paid for actual hours worked and receive no other benefits except those required by law, including worker's compensation and unemployment compensation (if eligible). Temporary employees may be dismissed at any time with or without cause, and with or without notice. Temporary employees do not have the right to file grievances over their demotion, suspension or dismissal. (Ord. No. 95-207, § 1.3.3(D), 12-11-95; Ord. No. 06-09, 1-9-06)~~

**~~Sec. 28-25. Probationary:~~**

~~{Probationary employment is} employment in a full- or part-time position prior to completion of the probationary period. The probationary period is a working test period of not more than six consecutive calendar months during which an employee is required to demonstrate his fitness for the position by actual performance of the duties of the position. All employees appointed, promoted, transferred or in any other way reassigned to a new position must complete a period of probation in order to become a regular full-time or part-time employee in the new position, provided, however, that if an employee is not successful in the new position, the employee shall be returned to the former position held if the former position is occupied or is vacant with the intent to fill it. (Ord. No. 95-207, § 1.3.3(E), 12-11-95)~~

**~~Sec. 28-26. Acting:~~**

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~~[Acting employment is] employment to fill a position while the town determines to hire and searches for an individual to fill the position on a full or part-time basis. Unless already a town employee or as otherwise specified, an acting employee is not entitled to any benefits except those required by law, including worker's compensation and unemployment compensation. An acting employee may apply for appointment to the full or part-time position he is occupying on an acting basis.~~

~~(Ord. No. 95-207, § 1.3.3(F), 12-11-95)~~

**~~Sec. 28-27. Special:~~**

~~[Special employment is] employment pursuant to a workfare arrangement, court ordered supervised work or service program or other similar program. Special employees will receive no benefits except as expressly required by law. Special employees are covered by these rules and regulations to the extent specified by the town manager.~~

~~(Ord. No. 95-207, § 1.3.3(G), 12-11-95)~~

**~~Secs. 28-28—28-40. Reserved:~~**

***ARTICLE III. COMMENCING EMPLOYMENT/NEW POSITION***

**~~Sec. 28-41. Vacancies:~~**

~~If a vacancy occurs in a classified position in any department, the department head shall notify the town manager stating the date of vacancy, position, title and any other pertinent facts which may be necessary. The town manager shall determine whether to fill the vacancy and whether to post the vacancy as available. Whenever a department head wishes to establish a new position, the department head shall notify the town manager in writing, stating the class title (if such a class exists) or provide a job description if the position is not classified. The reasons for the request must also be stated. No new position will be established without the approval of the town manager, and, in a case where an additional appropriation is required, the additional approval of the town council.~~

~~(Ord. No. 95-207, § 1.3.4(A), 12-11-95)~~

**~~Sec. 28-42. Recruitment:~~**

~~If the town manager determines to announce and fill a vacancy, individuals shall be recruited from a geographic area as wide as necessary to ensure obtaining well-qualified applicants for employment. Recruitment notices shall be prepared setting forth a basic description of the position, qualifications, requirements, application steps to follow and closing date for submitting application materials. Such notices shall affirm the town to be an equal opportunity employer. All recruitment notices shall require the prior approval of the town manager.~~

~~(Ord. No. 95-207, § 1.3.4(B), 12-11-95)~~

**~~Sec. 28-43. Application:~~**

~~Application for employment with the town whether from within or outside the town service must be filed on forms prescribed by the town manager or his designee. Such forms may require whatever information is deemed necessary and all applications must be signed by the individual applying. Applicants may attach a resume and cover letter to the application form. For those positions which require testing, a list of eligible candidates will be compiled of those applicants whose scores are acceptable. The names and scores on this list shall remain active for a period of one year after the position has been filled. The town manager shall determine the cutoff level of exam scoring, and those applicants whose scores fall below the designated level cannot reapply for that position for one year. No person whose score falls below the designated level shall be reexamined for the same position less than one year from the date of such failure. The town manager may require applicants to submit to interviews, tests~~

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and examinations which may include, among others, a preemployment physical and/or psychological examination, as permitted under state and federal law.

(Ord. No. 95-207, § 1.3.4(C), 12-11-95)

#### **Sec. 28-44. Appointment.**

- (a) After all applications are received, the department head involved shall review all applications and select for personal interview a group of applicants whose training and experience indicate that they are the best qualified. The department head will submit a recommendation for employment to the town manager who shall be the final appointing authority. When all other qualifications are equal, preference will be given to residents of Orono. The above shall apply to all appointments other than those of an emergency or acting nature.
- (b) The town manager may appoint a person to hold a position in an acting capacity. When the person appointed to an acting position is already employed in the town service, and simultaneously retains his normal position, the town manager may direct that the employee receive a ten percent premium above his normal rate of pay to reflect the added duties.

(Ord. No. 95-207, § 1.3.4(D), 12-11-95)

#### **Sec. 28-45. Promotion.**

Vacancies may be filled so far as practicable by promotion of full or part time employees within the town service. All promotions shall be subject to the rules regarding probationary periods. Furthermore, employees may be required to perform the duties of the position of a higher classification for a period of 30 days without change in pay or title in order to demonstrate their qualifications for promotion. Thereafter, an employee receiving a promotion shall be entitled to receive the rate of compensation in the entrance step of the class to which he has been promoted. In cases where the pay ranges overlap, promotion shall be effected at the next higher step in the new range.

(Ord. No. 95-207, § 1.3.4(E), 12-11-95)

#### **Sec. 28-46. Transfer.**

The town manager may transfer an employee to another position having the same pay range classification in the same department or another department, and such employee will retain the same status within the town service. No person shall be transferred to a position for which he does not possess the minimum qualifications.

(Ord. No. 95-207, § 1.3.4(F), 12-11-95)

#### **Sec. 28-47. Probation.**

- (a) *Duration.* Every new employee, and every person promoted or transferred to a new position, shall be required to serve a probationary period to enable the department head to observe the employee's ability to perform the various duties pertaining to the position. The probationary period will begin immediately upon the first day of work in the new position and continue for six months. If an employee's job is temporarily interrupted during the probationary period, upon return he will be required to complete the probationary period and may be given credit for the time already served.
- (b) *Rejection; retention.* At any time during the probationary period, department head may, with town manager approval, terminate the employment of a probationary employee within their department from his position for any reason. The supervisor will give the employee written notification that he is being terminated and the effective date of the termination. The employee may not grieve his rejection unless he feels the reason for

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~~the removal is based upon unlawful discrimination, in which case he may appeal pursuant to the grievance procedure, ending with the town manager at step 2, whose decision shall be final.~~

~~Not less than two weeks prior to completion of an employee's probation, the employee's department head must recommend in writing to the town manager whether to retain the employee in the position. No later than two weeks prior to completion of a department head's probation, the town manager shall determine whether to retain the department head in the position. In both cases, the town manager must notify the department head and payroll department of his decision prior to the end of the individual's probation.~~

~~Rejection of new employees during their probationary period will result in dismissal from town service. Rejection of an employee who was promoted or transferred to the vacancy will result in return of the employee to his prior position at the prior pay rate. Such a return to a prior position shall not be considered a demotion. Probationary employees in the prior position shall be similarly returned as necessary.~~

~~(Ord. No. 95-207, § 1.3.4(G), 12-11-95)~~

**Secs. 28-48—28-60. Reserved.**

## ***ARTICLE IV. COMPENSATION***

**Sec. 28-61. Classification plan.**

- (a) *Preparation of plan.* ~~The town manager or his designee shall prepare job descriptions for all full- and part-time positions in the town service and, after consulting with the heads of the departments affected, shall recommend to the town council a classification plan for such positions. The classification plan shall be so developed and maintained that all positions substantially similar with respect to qualifications, duties, responsibilities, authority and character of work are included within the same class and that the same range may be made applicable to all positions in the same class.~~
- (b) *Reclassification.* ~~Positions, the duties of which have changed materially so as to necessitate reclassification, may be reallocated to a more appropriate class, whether new or already created. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions. A request for reclassification to a higher classification may be originated by an employee or his department head. Such requests for reclassification must be in writing, must detail the reasons for the request and shall be submitted to the town manager.~~

~~(Ord. No. 95-207, § 1.3.5(A), 12-11-95)~~

**Sec. 28-62. Pay plan.**

- (a) *Preparation and maintenance of the plan.* ~~The town manager or his designee shall maintain a pay plan covering all classes in the town service and shall, at least annually, make such further review of the pay plan as he deems necessary for maintenance of a pay plan within the budget constraints of the town. In establishing the pay range to which each class shall be assigned, consideration may be given to maintenance of equitable relationships between classes, the general level of rates in the appropriate employment markets for comparable work under similar working conditions, current recruitment and retention experience, current costs of living, budget constraints and policies and other relevant factors.~~
- (b) *Adoption and amendment of the plan.* ~~The pay plan shall be adopted and may be amended from time to time by order of the town council. Thereafter, each position shall be assigned a pay rate in conformance with the pay schedule unless such schedule is amended upon recommendation of the town manager and by order of the town council.~~

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(c) ~~Application of rates.~~ Employees occupying a position in the service of the town shall be paid a wage or salary established for that position's class under the pay plan as described in this section. Generally, the minimum rate established for a class shall be applicable upon original appointment. However, the town manager may authorize original appointment or reinstatement at other than the minimum rate when it is determined to be in the best interest of the town.

(c) ~~Merit steps.~~ Full and part time employees may from time to time be granted a merit step increase within a pay range. Merit steps shall not be automatic but shall depend upon the increased service value of an employee to the town as evidenced by recommendations of his supervisor and department head, length of service, performance record, special training undertaken and other relevant factors. No increase shall be made so as to exceed the maximum rate established in the pay plan for the class to which the employee's position is allocated.

No employee shall be eligible for a merit step before completing 12 months of service with the town. If approved, merit steps will be granted during the second pay period of the employee's position anniversary month. Recommendations for merit steps are initiated by supervisors during the employee evaluation process. All recommendations for merit steps must be approved or disapproved by the town manager based upon the supervisor's recommendation, the employee's record and the overall consistency of granting merit steps within the town.

(c) ~~Cost of living adjustments.~~ General cost of living and other adjustments require town council approval and, if approved, will be granted to eligible employees simultaneously, regardless of length of service to the town.

(Ord. No. 95-207, § 1.3.5(B), 12-11-95)

### **Sec. 28-63. Hours of service and pay rates.**

(a) ~~Hours of service generally.~~

(1) ~~Hours of service.~~ The standard workweek shall consist of 40 working hours. Department heads may establish workweeks of a different number of hours with approval of the town manager. Department heads may establish and schedule shifts as necessary.

(2) ~~Overtime.~~ All nonexempt employees who actually work in excess of 40 hours per week will be paid the rate of time and one-half for hours in excess of 40. Hours in excess of eight hours per day will not, in and of themselves, constitute overtime pay unless total hours in the workweek exceed 40. Prior approval of department heads is necessary to authorize overtime.

With the exception of paid vacation leave and paid holidays, hours paid for but not worked, such as sick leave, shall not be counted towards the calculation of overtime or compensatory time.

Department heads will exercise discretion in authorizing overtime or compensatory time within their departments. Temporary adjustments in working hours or realignment of duties within the department should be considered as alternatives to the use of overtime. Overtime shall be considered necessary only in critical situations where additional effort is needed to complete a task within a certain amount of time.

(3) ~~Attendance.~~ Attendance means being on time, remaining at work until the end of the scheduled workday and responding promptly when called in, subject to emergencies and other authorized reasons. Employees shall be in attendance at their place of work in accordance with the rules regarding hours of work, holidays and leaves. Failure on the part of an employee, absent without authorization, to return to duty within 24 hours after notice to return shall be cause for immediate discharge.

(b) ~~Hours of service for supervisory personnel.~~ The provisions of this section regulating hours of service and overtime shall not apply to employees exempt from the Fair Labor Standards Act and its Maine equivalent.

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Generally, department heads and other supervisory personnel are considered exempt. The town manager shall determine which positions are exempt from applicable federal and state wage and overtime laws.

- (c) *Compensatory time.* Compensatory time is time off granted to nonexempt employees in compensation for hours worked in addition to the employee's regularly scheduled workweek. Upon request of the employee, the town may grant compensatory time off in lieu of overtime. Nonexempt, full-time employees who are regularly scheduled to work outside "normal business hours," as defined by their department, will have those scheduled events or meetings included in their regularly scheduled workweek. The employee and their department head will agree on the "flex time" schedule adopted. If the employee is called in outside of their regularly scheduled week, and the call-in will cause them to actually work more than 40 hours that workweek, they may accrue 1.5 hours of compensatory time for every hour worked over 40 hours unless time off is taken within the same week it is earned.

Compensatory time off may be used by the employee at the discretion of the department head. A maximum of 40 hours of compensatory time may be accumulated. The town manager may waive the 40-hour cap at their discretion in circumstances when employees are called in for public health and safety emergency response. In no case will an employee carry over more than 40 hours of compensatory time into a new fiscal year. Employees are encouraged to use compensatory time within the same workweek in which it is earned. An employee who terminates employment with the town is entitled to be paid for any unused compensatory time at the employee's regular hourly rate.

(Ord. No. 95-207, § 1.3.5(C), 12-11-95; Ord. No. 14-19, 2-10-14)

#### **Sec. 28-64. Employee evaluation and development.**

- (a) *Purpose and policy.* The town recognizes the need for operating an employee evaluation system for full- and part-time employees in order to:
- (1) ——— Assure the granting of step increases based on merit;
  - (2) ——— Fairly and accurately evaluate the employee's strengths, weaknesses and potential for growth;
  - (3) ——— Encourage and guide the employee's development of special skills and work interests; and
  - (4) ——— Provide a method for improving operational programs through employee participation.
- (b) *Maintenance of the system.* The town manager or designee is responsible for establishing the employee evaluation and development system and for overseeing the program. Employee evaluation is the continuing day-to-day responsibility of the supervisors who will complete evaluation forms for their subordinates as scheduled below. The town manager will provide guidance to supervisors and will make revisions to the system as necessary. The town manager may require that the town manager or his designee review the employee evaluations before they are provided to or discussed with employees.
- (c) *Annual employee evaluations.* Every attempt will be made to conduct the annual employee evaluation one month prior to the employee's position anniversary month. This evaluation will indicate not only the supervisor's observation of the employee's strengths and weaknesses, but also the employee's potential for growth in the town service and special skills and work interests which might be developed for both the town's and employee's benefit. Proper use of the performance evaluation will also serve as a means for identifying work requirements and keeping employees and supervisors informed of them, identifying training needs, helping improve individual performance, recognizing outstanding accomplishments, helping to strengthen supervisor-employee relationships, emphasizing the employee's contribution to the town's programs and helping to identify strengths and weaknesses of the town's programs. The employee evaluation will also serve as the means of justifying the granting or denial of a merit step.

The supervisor will prepare the employee evaluation form for each of his full- and part-time employees. The form will be prepared and discussed with the employee so that the employee may note his performance in relation

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to the standards that the supervisor has set for the job. The supervisor will also request the employee's observations of the department program and/or the employee's assignments, especially suggestions for improving assignments, functions or work procedures and any special problems noted. The employee will have the opportunity to discuss any other points which he feels the supervisor has overlooked and may write any comments he wishes to make on the form. The employee will then certify that he has reviewed the evaluation and that it has been discussed with him and the employee will receive a copy.

- (d) *Review of job descriptions.* At the time of the evaluation discussion, the supervisor will review the job description with the employee to note any major changes either of them feels have taken place in the employee's job and to clarify duties the supervisor assigns to the job. The supervisor, with the employee's assistance, will prepare a description of major changes, additions or deletions in the employee's duties and will forward these changes to the town manager for review. Significant changes may be incorporated into a new job description or the job may be reclassified to reflect changed responsibilities, functions, etc.
- (e) *Evaluation for merit step.* If the employee is determined to have been performing at a level warranting a merit step, the supervisor will so indicate on the evaluation form and will forward the form to the department head for approval. The department head will review the evaluation and approve or disapprove the recommendation for a merit step and forward the form to the town manager's office. The town manager will review the evaluation, determine whether to approve the merit step and inform the payroll department of any pay rate changes and the date when such changes become effective. The evaluation form will be placed in the employee's personnel file.

If the employee is determined not to be performing at a level warranting a merit step, the supervisor will recommend that no merit step be given and state the reasons for this decision in the evaluation. The evaluation will also state when the next evaluation will occur at which the employee will be eligible to receive a merit step. The department head will review the evaluation and approve or disapprove the recommendation of no merit step and forward the form to the town manager's office. The town manager will review the evaluation and determine whether to sustain the recommendation. The employee may only appeal the decision to deny a merit step increase in accordance with the dispute resolution procedure.

- (f) *Review of performance evaluations.* Although not subject to the dispute resolution procedure contained in this chapter, an employee who believes that his performance evaluation is inaccurate may write comments on the evaluation form. In addition, the employee may, after making comments on the form, seek review of the evaluation by the town manager or his designee. The request for a review must be made within five working days after the employee has certified that he has reviewed the evaluation. The town manager may then review the documentation relating to the performance evaluation and may meet with the employee and/or the department head concerning the evaluation. The town manager may change the evaluation if he finds there is significant error in the evaluation or finds that the facts upon which the evaluation was made were clearly wrong. Where there is a difference of opinion between the employee and the supervisor regarding an employee's performance, the town manager shall not disturb the evaluation of the department head.

Employees who directly report to the town manager may seek his review in this process, but there shall be no further review by any other body.

- (g) *Training.* Employees are encouraged to take responsibility for developing their job skills and personal potential by participation in in-service training. Training programs for employees may include courses, seminars, workshops, demonstrations, assignment of reading matter or any other method as might be available for improving the effectiveness and broadening the knowledge of employees in the performance of their respective duties. Participation in and successful completion of special training programs shall be considered in making merit step increases and promotions. If the town requires an employee to participate in a training program, the employee will be compensated at the employee's regular rate. If the employee requests to be reimbursed for the cost of a nonmandatory training program, the town manager may direct that the employee be reimbursed if the program is job related and money is available in the town budget.

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~~Reimbursement will be contingent upon satisfactory completion of the training program, as agreed upon by the employee and town manager.~~

~~Evidence of the successful completion of training programs should be filed in the employee's personnel record.~~

~~(Ord. No. 95-207, § 1.3.5(D), 12-11-95)~~

**~~Sec. 28-65. Reports and records:~~**

- ~~(a) *Personnel records.* The town manager or his designee shall maintain a personnel file for each employee of the town showing the name, title of position held, the department to which assigned, salary, changes in employment status and such other information as may be considered pertinent. Each employee shall promptly report all changes of name, address and telephone number to the payroll department.~~
- ~~(b) *Change of status reports.* Any temporary or permanent change in the employment status of an employee shall be reported by the department head to the town manager.~~
- ~~(c) *Destruction of records.* Payroll registers shall be kept permanently. All other personnel records, not a part of a current employee's personnel file, including correspondence, applications, examinations and reports shall be maintained in accordance with federal and state law.~~

~~(Ord. No. 95-207, § 1.3.5(E), 12-11-95)~~

**~~Secs. 28-66—28-70. Reserved:~~**

**~~ARTICLE V. BENEFITS~~**

**~~Sec. 28-71. Mandatory:~~**

~~The town shall comply with social security coverage, worker's compensation benefits, unemployment insurance and COBRA benefits in accordance with applicable federal and state laws.~~

~~(Ord. No. 95-207, § 1.3.6(A), 12-11-95)~~

**~~Sec. 28-72. Health insurance:~~**

~~The town shall make available to full-time employees, and may provide to part-time employees, group health insurance at a benefit level and with a carrier of the town's choice. The town shall pay the entire premium cost of an individual coverage. Employees shall contribute to the cost of premiums for single parent and family coverage in accordance with the insurance schedule which is recommended by the town manager and adopted by the town council from time to time.~~

~~(Ord. No. 95-207, § 1.3.6(B), 12-11-95)~~

**~~Sec. 28-73. Life insurance:~~**

~~Employees at their own expense shall have the option to purchase group life, accidental death and dismemberment insurance for himself and his dependents. The insurance shall be provided at a benefit level and through a carrier of the town's choice.~~

~~(Ord. No. 95-207, § 1.3.6(C), 12-11-95)~~

**~~Sec. 28-74. Disability insurance:~~**

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~~The town shall make disability insurance available to town employees at their own cost.  
(Ord. No. 95-207, § 1.3.6(D), 12-11-95)~~

### **~~Sec. 28-75. Retirement.~~**

~~The town shall provide full-time and part-time employees with participation in a retirement system, either through the state retirement system or other system which the town may from time to time implement. The town and the employee shall contribute to the retirement system in an amount determined by the retirement plan for each employee enrolled in the program. The town shall make a matching contribution of up to five percent of an employee's base salary to an approved defined contribution plan on behalf of a full-time employee and a pro-rata share on behalf of a part-time employee who is not a participant in the state retirement system.~~

~~(Ord. No. 95-207, § 1.3.6(E), 12-11-95; Ord. No. 96-103, 6-10-96)~~

### **~~Sec. 28-76. Worker's compensation differential.~~**

~~When a full-time employee is absent from work for a work-related illness or injury, the employee shall be entitled to receive the difference between his net straight time pay and his worker's compensation benefits for a period not to exceed 12 weeks per fiscal year from the date of the injury or illness. In no case shall an employee receive greater than 12 consecutive weeks of differential pay for a particular illness or injury. If worker's compensation coverage continues after the 12-week period, the employee shall receive benefits in accordance with state law.~~

~~(Ord. No. 95-207, § 1.3.6(F), 12-11-95)~~

### **~~Sec. 28-77. Employee assistance program.~~**

~~The town offers to its full-time employees and dependents a comprehensive employee assistance program (EAP). The program is established to assist employees who are experiencing on-the-job difficulties as the result of any number of personal problems. Use of the program may be initiated through referral by an employee's supervisor or self-referral by the employee. Although use of the program is strongly encouraged, participation is not mandatory. No information obtained during use of the program shall be disclosed without written consent, unless required by law.~~

~~(Ord. No. 95-207, § 1.3.6(G), 12-11-95)~~

### **~~Sec. 28-78. Legal aid and protection.~~**

- ~~(a) The town, with the employee's consent, will defend and indemnify any employee against a claim which arises out of an act or omission occurring within the course or scope of his employment, and for which the town is liable, up to the applicable statutory limits. Additionally, the town, with the employee's consent, will defend and indemnify an employee, up to the statutory limits of the Maine Tort Claims Act, against a claim which arises out of an act or omission within the course and scope of his employment, and for which the town is not liable, provided that such defense or indemnification is not contrary to public policy, and the town determines that the employee acted in good faith and not in violation of any law, ordinance, rule or regulation.~~
- ~~(b) In any case where the town is defending or indemnifying an employee, the town has the right to approve the retention of legal counsel and the right to authorize and accept settlements of such cases. Any employee involved in an accident or incident in which the town may be a party, or having any notice or knowledge of such accident or incident, is required to immediately file a full report with the employee's department head. Under appropriate circumstances, the town may be entitled to subrogation rights.~~

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- (c) ~~This section extends to former employees for claims against them arising from acts or omissions during their employment which would have been covered by this policy.~~

~~(Ord. No. 95-207, § 1.3.6(H), 12-11-95)~~

### **~~Sec. 28-79. Reference policy.~~**

~~All employment reference requests for current or former employees of the town must be received in writing, and all responses shall be made in writing. Both the applicable department head and the town manager must approve any reference response. In the absence of a release of claims against the town signed by the employee requesting the reference, the town shall only respond by disclosing information concerning salary, position and years of employment. The employee may, by signing a release, authorize the disclosure by the town of his last three evaluations and/or preapprove the wording of a reference response.~~

~~(Ord. No. 95-207, § 1.3.6(I), 12-11-95)~~

### **~~Sec. 28-80. Clothing allowance.~~**

~~Employees of the public works department and water pollution control facility shall be provided with a clothing allowance, the amount of which will be established from time to time by the town manager. The clothing allowance shall be disbursed to employees of these departments in two installments during the fiscal year. It is the responsibility of these employees to plan for the appropriate replacement of safety footwear, as well as other items of personal clothing used on the job. Other departments may provide safety equipment and/or clothing allowance to employees as approved in the budget process.~~

~~(Ord. No. 95-207, § 1.3.6(J), 12-11-95)~~

### **~~Sec. 28-81. Leaves.~~**

#### ~~(a) *Annual vacation leave.*~~

~~(1) *Amount.* All regular full time employees shall earn vacation during weeks in which the employee actually works or is in full pay status for at least 35 hours as follows:~~

~~a. *Upon initial hire,* vacation shall be accrued weekly at the annual rate of two weeks per employment and anniversary year.~~

~~b. *After completion of six years of continuous service,* vacation shall be accrued weekly at the annual rate of three weeks per employment or anniversary year.~~

~~c. *After completion of 12 years of continuous service,* vacation shall be accrued weekly at the annual rate of four weeks per employment or anniversary year.~~

~~d. *Effective January 1, 1997, after completion of 25 years of continuous service,* vacation shall be accrued weekly at the annual rate of five weeks per employment or anniversary year.~~

~~(2) *Part time employees.* Part time employees who work 1,040 hours annually are entitled to a pro rata share of vacation leave based upon their years of service and average scheduled workweek.~~

~~(3) *Accumulation of vacation leave.* Vacation leave shall not be accumulated to exceed two weeks more than the amount of vacation an employee earns in an anniversary year.~~

~~(4) *When taken.* No vacation leave may be taken by any employee while he is on probationary employment. Departments shall schedule vacation leaves with regard to length of service of employees, the department's operating requirements and responsibilities and, as far as possible, with the requests of employees.~~

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- (5) ~~*Holiday during vacation.* In the event one or more municipal holidays occur during an employee's scheduled vacation, such holiday shall not be charged as vacation leave. No holidays will be granted which fall during leaves of absence.~~
- (6) ~~*Death of employee eligible for vacation.* Upon the death of an employee who is eligible for vacation, payment will be made to the estate of the deceased employee in an amount equal to the employee's accrued vacation pay.~~
- (7) ~~*Termination of employment.* Employees who are eligible for vacation under these rules shall be paid an amount equal to the vacation pay earned, but not paid, to the effective date of such termination.~~
- (8) ~~*Vacation and sick leave.* Vacation time may be used by employees in addition to, or in lieu of, sick leave, with the approval of the town manager. An employee who becomes ill while on vacation may not charge such illness to sick leave unless the illness exceeds three (3) vacation days and the employee files a physician's certificate describing the nature and duration of the illness with his department head. An employee who is absent upon the scheduled workday just before or after vacation shall not receive paid sick leave for the absence(s) unless the employee submits a physician's certificate stating the reason for the absence.~~
- (9) ~~*Waiving of vacation leave.* Because vacation leave is granted to employees for a period of recreation, no employee shall be permitted to convert such leave into wages in lieu of vacation leave except in accordance with the limited and specific provisions of the Town of Orono's administrative Vacation Leave Cash Out Policy.~~
- (b) ~~*Sick leave.* All full-time (including probationary) employees shall accrue sick leave with pay at the rate of 2.31 hours for each scheduled week of forty (40) hours or 2.02 hours for each scheduled week of thirty-five (35) hours in which the employee actually works or is on full pay status for thirty (30) hours. Part-time employees are entitled to a pro-rata share of sick leave.~~

~~Sick leave shall not be considered as a right which an employee may use at his discretion, but shall be allowed only in the case of actual personal illness, disability or exposure to contagious disease. Sick leave may also be used for physical examinations and consultation with physicians. In addition, up to forty (40) hours of sick leave in any twelve-month period may be used for attendance upon members of the employee's immediate family or spousal equivalent whose illness requires the care of the employee. A request to use additional, available sick leave to care for a member of the employee's immediate family may be granted by the town manager under extreme circumstances. An employee may accumulate the unused portion of sick leave up to a maximum of one-hundred twenty (120) days. However, no payment for unused sick leave will be made upon separation from Town employment.~~

~~An employee absent on account of illness or injury shall notify his supervisor as early as possible before the regular starting time of his workday on the first day of his absence and it shall be the responsibility of the employee to keep his supervisor advised of the predicted length of absence and likely date of return. Sick leave shall begin on the date of notification of the illness as given by the employee, his family or his physician.~~

- (1) ~~*Additional sick leave request.* If the amount of sick leave credit and vacation provided in this personnel policy has been or is about to be exhausted, an employee may make application in writing for additional allowance of sick leave. Such additional allowances may be authorized by the town council and the town manager after reviewing all of the circumstances, work performance and other facts relevant to the request for the additional allowance. Any such allowance shall be considered an advance against future earning of sick leave.~~
- (2) ~~*Physician's certificate.* The department head or the town manager may require evidence in the form of a physician's certificate showing the reason for any absence and will be required for any absence of three (3) or more workdays. This certificate should give the nature of the illness, the expected duration and shall be paid for by the Town. The Town may choose the physician from whom it wishes the~~

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~~employee to obtain the certificate. If such a certificate is not provided upon request, further days of absence may reduce available vacation leave or may be considered, at the discretion of the town manager, leave without pay.~~

~~(c) *Family and medical leave.*~~

- ~~(1) In compliance with the state and federal Family and Medical Leave Acts, the town provides an unpaid leave of absence for up to twelve (12) weeks in a twelve month period for any employee who has been employed by the town for at least one thousand forty (1,040) hours during the preceding twelve (12) months. The family and medical leave may be requested for any of the following reasons:~~

~~The birth or care of a child;~~

~~The placement with the employee of a child for adoption or foster care;~~

~~To care for the employee's spouse, son, daughter or parent with a serious health condition; or~~

~~Because of a serious health condition that makes the employee unable to perform the function of their job.~~

- ~~(2) Any eligible employee wishing to take family and medical leave should make an appointment with the town manager or designee to discuss in full detail the provisions that are available to the employee under the Acts.~~
- ~~(3) Employees are required to provide at least thirty (30) days' advance notice should they intend to take family and medical leave. In emergency situations employees should give notice of their intent to take family and medical leave as soon as practicable. The town may require medical certification of the condition creating the need for family and medical leave.~~
- ~~(4) An employee may use, or the town manager may require the use of, vacation and sick leave as a part of family and medical leave. While on family and medical leave the employee will have the opportunity to continue any group health insurance coverage for which he is eligible on the same conditions as coverage would have been provided if the employee had been continuously employed during the leave. The employee is responsible for continuing payment of his share of health insurance premiums and should make arrangements with the town for payment of such premiums before departing on leave. Once family and medical leave expires, if the employee wishes to continue health insurance coverage, he shall pay the entire premiums for such health insurance.~~
- ~~(5) The employee shall not accrue additional vacation or sick leave during any unpaid portion of family and medical leave.~~
- ~~(6) An employee on family and medical leave will be entitled to return to the same or an equivalent position as the one he left. The town may inquire from time to time of the employee's status and intent to return to work. If the employee fails to return to work promptly at the end of approved family and medical leave, the employee may be subject to disciplinary action, up to and including termination.~~
- ~~(7) If the employee's serious health condition is related to performing work for the town, and it is covered by worker's compensation benefits provided through the town, once family and medical leave is exhausted an additional unpaid leave under this section of up to twelve (12) weeks may be granted by the town.~~

~~(d) *Administrative leave.*~~

- ~~(1) *Unpaid.* The town manager may grant an employee a leave of absence without pay if such leave will serve the best interests of the town. No such leave will be granted except upon written request of the employee setting forth the reason for the request. Upon expiration of an approved leave of absence or within a reasonable period of time after notice to return to duty, the employee shall return to the position held at the time leave was granted. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty, shall be cause for~~

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~~discharge. Vacation and sick leave do not accrue during a leave without pay. While on administrative leave the employee may have the opportunity to continue group health insurance coverage at his own cost. Department heads may grant a regular or probationary employee a leave of absence without pay for a period of time not to exceed one week. Such leaves shall be reported immediately to the town manager.~~

- ~~(2) *Paid.* The town manager may direct an employee to take a paid leave of absence if such leave will serve the best interests of the town.~~
- ~~(e) *Bereavement leave.* The purpose of bereavement leave is to enable an employee to take care of personal arrangements and problems caused by the death of a member of his immediate family. The town manager may grant, upon the request of the employee, up to three (3) working days of bereavement leave without loss of pay in this situation. Bereavement leave will not be charged to an employee's vacation or sick leave.~~
- ~~(f) *Military leave.* Any employee in a full or part time position who is a member of the National Guard or other military reserve unit and who is required to undergo field training shall be entitled to a leave of absence with differential pay for the period of such training. Differential pay shall not exceed two (2) weeks in any one year. The amount of compensation paid to such employee shall be the difference between his compensation for military activities as shown by a statement issued by military authorities giving his rank, pay and allowances and the amount of net straight time pay due as an employee of the town. If the compensation for military service is equal to or greater than the net straight time salary or wages due as a town employee, then no payment shall be made. Employees will be entitled to unpaid leaves of absence to perform military duties to the extent required by law.~~
- ~~(g) *Jury leave.* Every employee who is called or required to serve as a juror will be excused from his work for the period necessary to perform this duty. If the jury is excused early from duty during the time of its service, the employee is expected to report for work as usual. An employee required to serve on a jury and thus having to be absent from regular duty may, upon application, be paid the difference between the compensation received from jury duty and his regular compensation from the town, for a period of up to thirty (30) days in any twelve month period, upon presentation of a receipt of jury pay granted or received.~~

~~(Ord. No. 95-207, § 1.3.6(K), 12-11-95; Ord. No. 97-110, 7-14-97; Ord. No. 99-02, 1-11-99; Ord. No. 10-162, 8-9-10)~~

### **Sec. 28-82. Holidays.**

- ~~(a) Full and part time employees shall be entitled to the following paid holidays:~~
  - ~~(1) New Year's Day;~~
  - ~~(2) Martin Luther King Day;~~
  - ~~(3) President's Day;~~
  - ~~(4) Patriot's Day;~~
  - ~~(5) Memorial Day;~~
  - ~~(6) Independence Day;~~
  - ~~(7) Labor Day;~~
  - ~~(8) Indigenous Peoples' Day;~~
  - ~~(9) Veteran's Day;~~
  - ~~(10) Thanksgiving Day;~~
  - ~~(11) Friday after Thanksgiving;~~

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~~(12) Christmas Day.~~

- ~~(b) Full time (including probationary) employees shall not be required to be on duty unless the employee's services are required for an emergency or performance of an essential public service, in which event any such employee shall be entitled to pay or compensatory time at one and one-half (1½) times the regular rate for hours actually worked.~~
- ~~(c) Generally, when a holiday falls on a Sunday, the following Monday will be observed and when a holiday falls on a Saturday, the preceding Friday will be observed. The town manager will notify employees each year of the days on which holidays recognized by the town shall be observed. If a holiday falls on an employee's regularly scheduled time off, the employee shall be entitled to compensatory time off.~~
- ~~(d) Payments for a holiday shall be made only if the eligible employee shall have actually worked on his last regularly scheduled working day prior to such holiday and on his next regularly scheduled working day following such holiday or was in full pay status on the preceding and following day in accordance with other provisions of these rules and regulations. However, an employee who engages in a pattern of using sick leave on the last scheduled working day prior to such holiday or on his next regularly scheduled working day following such holiday shall not receive holiday pay.~~

~~(Ord. No. 95-207, § 1.3.6(L), 12-11-95; Ord. No. 17-161, 9-11-17)~~

~~Secs. 28-83—28-90. Reserved.~~

## ~~ARTICLE VI. WORKING ENVIRONMENT~~

~~Sec. 28-91. Harassment policy.~~

- ~~(a) It is the policy of the town to provide a work environment free of sexual or other illegal harassment. The town will not tolerate any type of illegal harassment of its employees. The town will strive to maintain a healthy atmosphere that allows employees to perform their jobs free from conduct which can be considered illegal harassment, either physical or verbal, and which may interfere with a productive workplace.~~
- ~~(b) Sexual harassment defined; examples.~~
  - ~~(1) Sexual harassment is illegal and is defined in the regulations of the Equal Employment Opportunity Commission and the Maine Human Rights Act as follows:  
Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
    - ~~a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;~~
    - ~~b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or~~
    - ~~c. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.~~~~
  - ~~(2) The following are examples of conduct that may constitute sexual harassment:
    - ~~a. Unwelcome sexual advances.~~
    - ~~b. Suggestive or lewd remarks.~~
    - ~~c. Unwanted hugging, touching or kissing.~~
    - ~~d. Requests for sexual favors.~~~~

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e. ~~The display of sexually suggestive objects or pictures.~~

(c) ~~Filing a complaint of sexual harassment will not result in retaliation against the complainant as this is both against the policy of the Town and against the law. Any employee who feels he is a victim of sexual harassment should immediately report this to the town manager or his designee.~~

(Ord. No. 95-207, § 1.3.7(A), 12-11-95)

### **Sec. 28-92. Workplace safety.**

(a) ~~Accident reporting.~~ When an employee of the town suffers an injury or accident in the course of employment, a report of the accident must be made immediately to the employee's supervisor. Supervisors must, in turn, report the accident immediately to the town manager or designee so that any necessary accident and injury reports may be completed.

(b) ~~Safety and loss control program.~~ The town manager shall be responsible for implementing a safety and loss control program for town employees. The goals of the program may include, among other objectives:

(1) ~~Providing a safe and healthful working environment for all town employees;~~

(2) ~~Developing safe work habits and procedures;~~

(3) ~~Protecting workers and minimizing worker's compensation claims by reducing the incidence of work-related accidents and injuries;~~

(4) ~~Reducing employee absenteeism due to injuries and accidents; and~~

(5) ~~Holding employees accountable for complying with the safety program.~~

The town manager shall appoint a safety committee to assist in achieving the goals of the program. The town manager shall direct the committee in undertaking specific tasks relating to review, reporting, training and policy formulation.

(c) ~~Hazard communications.~~ The town manager or his designee shall maintain and update the town's hazard communication program. The purpose of the hazard communication program is to make town personnel who may be exposed to hazardous substances aware of the hazards and applicable safety procedures. In particular, the town shall endeavor to see that all hazardous chemicals are properly labelled and accompanied by a materials safety data sheet and that town employees are trained in the hazard communication program.

(Ord. No. 95-207, § 1.3.7(B), 12-11-95)

### **Sec. 28-93. Workplace violence.**

Violence is action which includes the use of physical force, harassment, intimidation or abuse of power or authority against another person. Acts of violence in and around the workplace are unacceptable and will not be tolerated. It is the responsibility of all employees, supervisory and otherwise, to foster a work environment of respect and healthy conflict resolution. Employees experiencing violence in aspects of their lives outside of work are encouraged to use the EAP program as appropriate.

(Ord. No. 95-207, § 1.3.7(C), 12-11-95)

### **Sec. 28-94. Whistleblower protection.**

The town strives to conduct its business with integrity and in strict compliance with all applicable federal, state and local laws and regulations. Accordingly, employees are encouraged to bring to the attention of their supervisor or the town manager any actions of town officials or employees which they believe may be improper.

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The town will not retaliate against any employee who makes a report in good faith to either his supervisor, the town manager or to a regulatory body.

(Ord. No. 95-207, § 1.3.7(D), 12-11-95)

### **Sec. 28-95. Smoking policy.**

Smoking of cigarettes, cigars, pipes or other objects giving off smoke in any town-owned building, or other structure under the control of the town, is prohibited.

(Ord. No. 95-207, § 1.3.7(E), 12-11-95)

### **Secs. 28-96—28-100. Reserved.**

## ***ARTICLE VII. EMPLOYEE CONDUCT***

### **Sec. 28-101. Employee ethics.**

A town employee is prohibited from engaging in any conduct which could reflect unfavorably upon town service. Town employees must avoid any action which might result in or create the impression of using public employment for private gain, giving preferential treatment to any person or losing impartiality in conducting town business. No employee authorized to make purchases or a contract for services shall have any direct or indirect financial interest or personal gain in any purchase or contract. The employee should disclose any potential conflict of interest to his department head or the town manager. Employees may be required by their department head or town manager to disclose information relevant to any potential or actual conflict of interest.

(Ord. No. 95-207, § 1.3.8(A), 12-11-95)

### **Sec. 28-102. Receipt of gifts.**

- (a) A town employee is prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loan or any other thing of monetary value from any person who has or is seeking to obtain business with the town or from any person within or outside town employment whose interests may be affected by the employee's performance or nonperformance of his official duties. Acceptance of nominal gifts in keeping with special occasions, such as marriage, retirement or illness; food and refreshments in the ordinary course of business meetings; or unsolicited advertising or promotional materials, e.g., pens, note pads, calendars, is permitted.
- (b) In addition, supervisors must avoid placing themselves in a position which could interfere with, or create the impression of interfering with, the objective evaluation and direction of their subordinates. No supervisor shall accept gifts from subordinates other than those of nominal value for special occasions, and no supervisor shall borrow money or accept favors from any subordinate.

(Ord. No. 95-207, § 1.3.8(B), 12-11-95)

### **Sec. 28-103. Business activities and solicitation.**

No employee shall engage in any business other than regular duties of the town during working time, including such activities as selling to fellow employees, lending of money for profit, etc. With the exception of town-approved activities, no solicitation of any kind is permitted on town premises during working time. Working time includes the working time of both the employee soliciting, and the employee to whom such activity is directed. Working time does not include break time. While on town premises during nonworking time, such as breaks and meal times, employees may engage in personal, business or social activities which are not disruptive to those who are working.

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~~(Ord. No. 95-207, § 1.3.8(C), 12-11-95)~~

**~~Sec. 28-104. Outside employment:~~**

- ~~(a) No employee of the town may engage in additional employment outside the official hours of duty unless approved by the department head and the town manager. No employee may engage in additional employment which in any way interferes with the proper and effective performance of the duties of his position, results in a conflict of interest or subjects the town to public criticism or embarrassment. If the town manager determines that such outside employment is disadvantageous to the town, upon notification in writing by the town manager, the employee involved shall take prompt steps to resolve the situation.~~
- ~~(b) Any full or part time employee who engages in employment outside of his regular working hours shall be subject to call to perform his regular town duties first. The town shall, in no respect, [neither] be liable for nor grant sick leave or disability leave in the case of any injury or occupational illness incurred by an employee while engaged in outside employment.~~

~~(Ord. No. 95-207, § 1.3.8(D), 12-11-95)~~

**~~Sec. 28-105. Privileged information:~~**

~~Many town employees deal with plans and programs of significant public interest. Employees shall not prematurely disclose to the public privileged information concerning such plans and programs. Employees shall not use this privileged information to their own financial advantage nor to provide friends or acquaintances with financial advantages. If an employee finds that he has an outside financial interest which could be affected by town plans or activities, he must immediately report the situation to his supervisor. Each employee is charged with the responsibility of releasing only information which is available to the general public. Violation of privileged information or use for private gain can be cause for discharge of the employee as determined by the town manager.~~

~~(Ord. No. 95-207, § 1.3.8(E), 12-11-95)~~

**~~Sec. 28-106. Town property:~~**

- ~~(a) Except as may be authorized by a policy or program adopted or approved by the town council, employees should not, directly or indirectly, use or allow the use of town property of any kind for other than official activities. Certain nominal use of town property may be permitted at the discretion of department heads so long as such use does not interfere with town operations.~~
- ~~(b) Employees should not use the telephone facilities for personal calls when the placing of such calls would interfere with the employee's duties, would incur additional financial liability for the town or would interfere with the use of the facilities for official business. Any such use should be urgent, infrequent and of short duration.~~

~~(Ord. No. 95-207, § 1.3.8(F), 12-11-95; Ord. No. 01-37, 3-12-01)~~

**~~Sec. 28-107. Political activity:~~**

- ~~(a) All employees of the town shall be able to exercise their rights as citizens, express their opinions and cast votes. No employee shall hold any elective position in the town or county government. No employee may accept an appointive position in the town unless approved by the town manager. No employee shall solicit any person to vote for or against a particular candidate or issue at any town election, nor in any manner attempt to influence the vote of any voter during working time. No employee shall engage in any campaign activities for political candidates during working time.~~

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- (b) ~~Any employee who becomes a candidate for any elective position of the town shall, commencing thirty (30) days prior to the date of the primary or general election and continuing until such person is eliminated as a candidate, either voluntarily or otherwise, automatically receive leave of absence without pay and during this period shall perform no duties connected with the position or office so held. However, an employee who is a candidate for a nonpartisan office not related to his employment shall not be required to take leave of absence, if such employee refrains from campaigning while on duty as an employee. If elected to any political office, and the town manager deems the office incompatible with the employee's duties to the town, the employee will terminate his employment with the town prior to assuming the office.~~
- (c) ~~Town employees working in federally funded positions shall comply with the provisions of the Hatch Act as required.~~

~~(Ord. No. 95-207, § 1.3.8(G), 12-11-95)~~

### **Sec. 28-108. Financial obligations:**

~~Employees shall prudently arrange and conduct their personal financial affairs so that creditors will not have to consult town officials for the purpose of making collections. Repeated failure on the part of an employee to meet his just financial obligations shall be grounds for disciplinary action or discharge.~~

~~(Ord. No. 95-207, § 1.3.8(H), 12-11-95)~~

### **Sec. 28-109. Driving policy:**

- (a) ~~Any employee, volunteer, official or other person who drives town vehicles, or drives private vehicles on town business, must have a valid Maine drivers license and a satisfactory driving record. Any person who is to be hired for a position which involves driving town vehicles or driving a private vehicle on town business shall have his license checked for active status and accident/conviction history. The town shall annually check the driving record of any person whose position requires driving a town vehicle or driving a private vehicle on town business.~~
- (b) ~~Any employee cited or fined for a moving vehicle violation while on town time must report the event immediately to the employee's supervisor. If any employee's license is suspended or revoked while working for or providing services to the town, it must be reported within twenty four (24) hours to the department head. The department head, in consultation with the town manager, shall determine the appropriate course of action, including reassignment of duties, leave of absence or discipline.~~
- (c) ~~Any employee driving a town vehicle, receiving mileage or other reimbursement from the town for driving, or otherwise driving on behalf of the town, shall wear seat belts at all times and shall require any passengers to wear seat belts. The town manager may implement such other policies as is necessary to ensure a safe driving policy.~~

~~(Ord. No. 95-207, § 1.3.8(I), 12-11-95)~~

### **Sec. 28-110. Travel policy:**

- (a) ~~Whenever feasible, a town employee will use a town vehicle for both local and out-of-town travel on town business, provided such use does not interfere with the efficient operation of the town. If an employee does not have access to a town vehicle, the employee will be reimbursed for using his own vehicle on a rate per-mile basis established from time to time in writing by the town manager.~~
- (b) ~~The town manager may establish a monthly travel allowance to cover the cost of local travel for employees who use their own vehicles during the performance of their official duties and for whom the maintenance of exact mileage records would interfere with the efficient performance of their jobs. The monthly travel~~

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allowance should approximate the cost if actual mileage figures were maintained and submitted for reimbursement on a rate per mile basis.

(c) Employees will be reimbursed for the reasonable cost of their expenses associated with authorized travel on town business, such as for lodging, meals, airline tickets and parking fees. All such expenses must be documented.

(d) The town manager shall establish rules as necessary for the use of the town motor pool car.

(Ord. No. 95-207, § 1.3.8(J), 12-11-95)

### **Sec. 28-111. Anti-nepotism:**

No applicant shall be considered for employment in the same department where an immediate family member is already employed. This policy may be waived for applicants for other than full-time employment when the town manager determines that such waiver is necessary in order to recruit sufficient personnel to meet the town's needs. Such waivers shall be for a specific period of time and shall detail the positions covered. Waivers shall not create a grandfathered situation in future years. This policy may not be waived for applicants for full-time positions. In a situation where the nepotism policy is waived, relatives shall not supervise one another and every effort shall be made to assign relatives to separate crews, shifts or supervisors.

(Ord. No. 95-207, § 1.3.8(K), 12-11-95)

### **Secs. 28-112—28-120. Reserved:**

## **ARTICLE VIII. DISCIPLINARY ACTIONS**

### **Sec. 28-121. Policy:**

(a) It is the responsibility of all employees to observe the regulations necessary for the proper operation of the departments of the town. Department heads are responsible for enforcing these regulations and referring problem situations to the town manager for appropriate disciplinary action. When appropriate, the town manager may initiate discipline. Disciplinary actions or measures shall generally consist of the following: Verbal warning, written warning, suspension, demotion and discharge, not necessarily in that order. However, each individual case of disciplinary action is a unique event, and other forms of discipline may be used as appropriate to the circumstances. The disciplinary action imposed should vary with the severity of the situation.

(b) Disciplinary action shall only be imposed on a non-probationary or non-temporary employee for cause. The following examples illustrate types of conduct which may constitute cause for disciplinary action and are not exclusive:

(1) Violation of provisions of the town's ordinances, including the personnel rules and regulations;

(2) Incompetence or inefficiency in the performance of assigned duties;

(3) Carelessness or negligence in the care of town property;

(4) Repeated tardiness or absence from duty;

(5) Use of abusive, profane or discourteous language or behavior with other employees or members of the public;

(6) Conviction of a serious crime;

(7) Being under the influence of, or use of, alcohol or illegal drugs while on duty; reporting for work with the odor of intoxicants on employee's breath; possession of illegal drugs while on duty;

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- ~~(8) Off duty conduct, such as consuming alcohol during lunch breaks, which reflects unfavorably upon the town as an employer;~~
  - ~~(9) Violation of any reasonable or official order or failure to carry out any lawful and reasonable directions made and given by a proper supervisor;~~
  - ~~(10) Falsifying time records, making a false claim for leave or other forms of dishonesty;~~
  - ~~(11) Failing to comply with the town safety program; or~~
  - ~~(12) Any other instance or situation of such seriousness that disciplinary action is considered warranted.~~
- ~~(Ord. No. 95-207, § 1.3.9(A), 12-11-95; Ord. No. 06-09, 1-9-06)~~

**~~Sec. 28-122. Warnings:~~**

~~A supervisor or a department head may issue a verbal or written warning to an employee. The warning must include reasons for the warning. When practicable, verbal warnings shall be presented with regard for minimizing embarrassment to the employee before other employees or the public.~~

~~(Ord. No. 95-207, § 1.3.9(B), 12-11-95)~~

**~~Sec. 28-123. Suspension:~~**

- ~~(a) A department head may immediately suspend an employee for up to three (3) workdays with pay, pending investigation. An investigatory suspension may be extended with the approval of the town manager.~~
- ~~(b) A department head may, with the approval of the town manager, assess a disciplinary suspension without pay for a period or periods that will not exceed a total of thirty (30) days in any twelve-month period. The employee will receive a written notice stating reasons for the disciplinary suspension and the effective date. At the end of a reasonable observation period following the suspension, the department head shall inform the town manager of the employee's performance and recommended retention or discharge.~~
- ~~(c) Suspension without pay shall only be imposed as a disciplinary measure on exempt employees for infractions of major rules of the town safety program.~~

~~(Ord. No. 95-207, § 1.3.9(C), 12-11-95)~~

**~~Sec. 28-124. Demotion:~~**

~~A department head may, with the approval of the town manager, demote any employee within the range provided in the pay plan for his position if the employee's ability to perform his required duties falls below standard or for other disciplinary purposes. Upon request of the department head and approval of the town manager, demotion may also be made to a vacant position. No employee shall be demoted to a position for which he does not possess the minimum qualifications. A written notice of the reasons for demotion or reduction in range shall be furnished the employee at least five (5) days prior to the effective date of the action. An employee receiving a demotion to a vacant position will receive the rate of compensation at the step within the class to which he has been assigned as determined by the town manager. The employee shall retain his original anniversary date.~~

~~(Ord. No. 95-207, § 1.3.9(D), 12-11-95)~~

**~~Sec. 28-125. Discharge:~~**

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A department head may, with the approval of the town manager, discharge an employee for cause, including the reasons for disciplinary action listed in section 28-121. Temporary and probationary employees may be dismissed at any time with or without cause, and with or without notice.

(Ord. No. 95-207, § 1.3.9(E), 12-11-95; Ord. No. 06-09, 1-9-06)

**Sec. 28-126. Due process hearing.**

- (a) Before deciding whether to approve a department head's recommendation of suspension, demotion or discharge (other than for probationary or temporary employees), the town manager or his designee shall hold an informal hearing. The hearing shall include at a minimum the employee, the employee's department head and the town manager or designee. The employee will be given reasons for the proposed disciplinary action in advance of the informal hearing. The employee, in turn, will be permitted to respond to the reasons and to present reasons why the discipline or discharge is not justified. The employee shall be permitted to have witnesses speak on his behalf and to be assisted by a non-attorney representative.
- (b) If the town manager or designee determines that the recommended discipline is not warranted, the town manager may impose any appropriate discipline under the personnel policies or deny imposing any discipline.

(Ord. No. 95-207, § 1.3.9(F), 12-11-95; Ord. No. 06-09, 1-9-06)

**Sec. 28-127. Supervisory personnel.**

The town manager is responsible for the discipline or discharge of personnel of department head level and equivalent. The town manager shall act in accordance with the disciplinary procedures outlined in this article or the employee's contract. If the town manager desires to suspend, demote or discharge an employee at the department head level or equivalent, the town manager will first hold an informal hearing as described in section 28-126. If the town manager is required to excuse himself from presiding at the informal hearing, the hearing shall be conducted by an individual experienced in personnel matters who is not a member of the council, [and who is] appointed by the chair of the town council. In that case, the individual shall have the authority to affirm, deny or modify the discipline or discharge recommended by the town manager.

(Ord. No. 95-207, § 1.3.9(G), 12-11-95)

**Secs. 28-128—28-140. Reserved.**

***ARTICLE IX. DISPUTE RESOLUTION***

**Sec. 28-141. Scope.**

A grievance is a dispute by an employee concerning the interpretation or application of the specific provisions of these personnel policies or a complaint about working conditions. Issues involving the increase or decrease of general wage rates or salaries, overall benefits and issues not having to do directly and primarily with the day-to-day working life of the employee and the relationships with his supervisor and peers shall not be considered the subject of a grievance.

(Ord. No. 95-207, § 1.3.10(A), 12-11-95)

**Sec. 28-142. Informal grievance procedure.**

- (a) It is the policy of the town to adjust grievances informally. Whether the matter involves differences with a coworker, or a supervisor, the employee must first try to resolve the differences through discussion with the

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individual(s) involved. If this does not resolve the differences, the employee may initiate discussions as a grievance with his department head or designee without delay. All grievance discussions should be commenced no later than ten (10) working days after the event being grieved became known, or should have become known, to the employee(s) concerned.

- (b) Sincere effort should be made to find an acceptable solution by informal means at the lowest possible level of supervision. If the employee is not in agreement with the discussions or decision reached by informal discussion, he may then reduce the grievance to writing and appeal pursuant to the formal grievance procedure within fifteen (15) working days after the event being grieved became known, or should have been known, to the employee(s) concerned.

(Ord. No. 95-207, § 1.3.10(B), 12-11-95)

### **Sec. 28-143. Formal grievance procedure.**

In order to ensure the employee of a method for obtaining prompt review of the grievance, fairly and without reprisal, the following steps are provided:

- (1) *Step 1.* The aggrieved employee must submit the written grievance to the department head within the 15-working-day time limit set forth above. The written grievance should set forth the dispute, including a description of the remedy being sought, the provisions of the policies at issue and any information available in support of the grievance. The department head receiving the written grievance appeal shall review it and conduct an investigation as appropriate, which may include meeting with the employee. The department head shall render his decision and comments in writing and provide the employee with the written answer to the grievance within five (5) working days of receiving the grievance.
- (2) *Step 2.* If the employee does not agree with the decision of the department head, the employee may appeal the grievance in writing to the town manager within five (5) working days of receipt of notice. The town manager or designee may, with the consent of the employee, refer the matter to the personnel appeals board for a hearing and an advisory opinion to be rendered to the town manager with a copy to the aggrieved employee within ten (10) working days of receipt of notice to the town manager of an appeal to step 2. The town manager or designee may also discuss the grievance with the employee and any other appropriate persons. The town manager shall render a decision in writing to the employee within ten (10) working days after receiving the advisory opinion of the personnel appeals board or within ten (10) working days after receiving the appeal if the employee does not request a hearing before the personnel appeals board. The decision of the town manager shall be final.

(Ord. No. 95-207, § 1.3.10(C), 12-11-95)

### **Sec. 28-144. Rules governing the conduct of the grievance procedure.**

- (a) Time limits specified in the grievance procedure may be extended to a definite date by mutual agreement of the employee and the reviewer concerned. If the department head, town manager or town council committee fail to respond within the prescribed time limits, the grievance response shall be considered a denial as of the date a response is due, and the employee may proceed to the next step. If the employee fails to file or appeal a grievance within the prescribed time limits, the grievance shall be dismissed and considered resolved in accordance with the town's last response.
- (b) The employee may obtain the assistance of another person of his own choosing in preparing the appeal at any level of review. Such assistance shall be at the employee's expense.
- (c) The employee and his representative may attend informal and formal grievance meetings scheduled during working time without loss of pay. The town manager may allow the reasonable use of additional working time to prepare for grievance proceedings.

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(d) ~~Employees at department head level or equivalent shall initiate grievances directly with the town manager at step 2. If informal resolution efforts fail, the town manager shall provide the department head or above with a written decision within ten (10) working days of receiving the grievance. Aggrieved department heads or equivalent may then appeal the town manager's decision in accordance with step 2.~~

(e) ~~All employees shall be assured freedom from reprisal for using the grievance procedure.~~

~~(Ord. No. 95-207, § 1.3.10(D), 12-11-95)~~

~~**Secs. 28-145—28-150. Reserved.**~~

## ~~**ARTICLE X. SEPARATION**~~

~~**Sec. 28-151. Reductions in force.**~~

~~An employee may be laid off whenever it is necessary to reduce the number of employees in any department because of a shortage of work or funds, abolishment of a position, a change in departmental functions or organization or for related reasons. Employees shall be laid off, insofar as possible, in inverse order of length of service within the class of positions within the department, taking into account the needs of the department and the town to meet its responsibilities. No regular employee shall be laid off except upon written notice from the town manager given not less than two (2) weeks before the effective date of the layoff, or payment of two (2) weeks pay in lieu of notice may be given. Any temporary employee may be laid off first without regard to the provisions of this rule. An employee who is laid off shall be considered to be terminated from employment with the town.~~

~~(Ord. No. 95-207, § 1.3.11(A), 12-11-95)~~

~~**Sec. 28-152. Resignation.**~~

~~A full-time employee wishing to leave the town service in good standing shall file with his department head or, in the case of department heads, with the town manager a written resignation stating the effective date and reasons for leaving at least ten (10) working days before leaving town service, unless such time limit is waived by the town manager. Part-time, temporary and probationary employees shall give at least five (5) working days' written notice prior to the effective date of resignation. Failure to give adequate notice shall be sufficient reason to deny an applicant for consideration for employment at a later date. Employees shall not be paid for holidays occurring after the last day actually worked.~~

~~(Ord. No. 95-207, § 1.3.11(B), 12-11-95)~~

~~**Sec. 28-153. Retirement.**~~

~~Whenever an employee meets the conditions defined by the state retirement system or other retirement system in effect for the employee, he may retire and shall receive all benefits under the plan for which he may be eligible.~~

~~(Ord. No. 95-207, § 1.3.11(C), 12-11-95)~~