



TOWN OF GARDINER

EMPLOYMENT PRACTICES COMPLIANCE MANUAL

Approved by the Town Board March 10, 2015

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PART 1 INTRODUCTION

1.1 General Purpose of Manual

1.1.1 Statement of Purpose: The purpose of this Employment Practices Compliance Manual is to communicate important information about specific employment policies and practices of the Town of Gardiner - particularly those that pertain to various work rules and government regulations.

1.1.2 Previous Manuals: This Employment Practices Compliance Manual replaces any previous manual or handbook issued by the Town of Gardiner concerning the policies and practices contained within this manual.

1.1.3 Questions: Questions regarding this manual should be presented to the Town Supervisor.

1.2 Employment Practices Compliance Manual Disclaimers

1.2.1 Employment Contract: This Employment Practices Compliance Manual is not a contract of employment, expressed or implied, and should not be construed as such.

1.2.2 Policy Exceptions: This Employment Practices Compliance Manual should not be interpreted as a guarantee that the policies and practices in it will be applied in all cases. Further, the Town Board may at its sole discretion, make exceptions to any part of this Employment Practices Compliance Manual where such exceptions are permissible by law.

1.2.3 Policy Interpretation: The Town Board retains the right to interpret any part of this Employment Practices Compliance Manual and to amend or eliminate any part of this manual.

1.2.4 Governmental Regulations: In the event a federal or state statute, rule, or regulation conflict with any provision contained in this Employment Practices Compliance Manual, then such statute, rule, or regulation will prevail.

1.2.5 Collective Bargaining Agreements: In the event an expressed provision within a collective bargaining agreement should conflict with an employment policy or practice within this Employment Practices Compliance Manual, the expressed provision of the collective bargaining agreement will control for those employees in the bargaining unit. If not, unless expressly excluded within a given section of this manual, this Employment Practices Compliance Manual will apply to all employees.

1.3 Management Rights

1.3.1 Management Rights Clause: The rights and responsibilities to operate and manage the business and affairs of the Town of Gardiner are vested exclusively in the Town, and the Town not exercising any of these rights shall not be construed as a waiver of them. These rights and responsibilities include, by way of illustration and without being limited by past practice or otherwise, the right to:

- hire, assign, promote, transfer, furlough, lay off, evaluate, and discipline employees for just cause;
- select, test, train and determine the ability and qualifications of employees;
- determine, control and change work practices and schedules, work and shift assignments, hours of work, the size, composition and organization of the workforce, and job classifications, descriptions, content and standards;
- implement and comply with regulations and requirements issued by any government agency;
- make, modify and enforce reasonable rules of employee conduct and safety;
- determine, control and change the quality and nature of products, materials and services;
- introduce new or improved methods, equipment, techniques and processes;
- contract and subcontract for services; and
- exercise all other rights pertaining to the operation and management of the business and affairs of the Town of Gardiner.

1.4 Definitions

1.4.1 Department Head: For purposes of this Employment Practices Compliance Manual, "Department Head" will mean either the Town Supervisor, Superintendent of Highways, Town Clerk, or Town Justices, as the case may be.

1.4.2 Employee: For the purposes of this Employment Practices Compliance Manual, the term "employee" will mean a person employed by the Town, including, but not limited to, provisional employees, probationary employees, temporary employees, seasonal employees, and appointed members of a board or commission, but not an Elected Official or an independent contractor.

1.5 Employee Classifications

1.5.1 Full-Time Employee: For purposes of this Employment Practices Compliance Manual, the term "full-time employee" will mean an employee who is regularly scheduled to work a minimum of thirty-five hours per week throughout the year; or who is regularly scheduled to work at least a total of 1820 hours per year. *An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the definition of full-time employee.*

1.5.2 Part-Time Employee: For purposes of this Employment Practices Compliance Manual, the term "part-time employee" will mean an employee who is regularly scheduled to work less than thirty-five hours per week throughout the year; or who is *regularly scheduled* to work less than a total of 1820 hours per year. *An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the definition of part-time employee.*

1.5.3 Temporary Employee: For purposes of this Employment Practices Compliance Manual, a "temporary employee" will mean someone who is called in to work on an interim or "as needed" basis for a specified period or to replace an employee who is on an approved leave of absence. Temporary employees will be hired in accordance with Civil Service guidelines.

1.5.4 Seasonal Employee: For the purpose of this Employment Practices Compliance Manual, a "seasonal employee" shall mean someone employed to work for a given season. Seasonal employees will be hired in accordance with Civil Service guidelines.

PART 2 PERSONNEL PROCEDURES

2.1 Procedure for Filling Vacancies

2.1.1 Initiation of Procedure for Filling Vacancies: In the event a Department Head needs to create a new position or fill a vacancy in an existing position, the Department Head should notify the Town Supervisor and prepare a summary of the duties, responsibilities, and requisite skills and qualifications. The Town Board will determine if the vacancy is to be filled; whether the position is to be filled as a full-time, part-time, temporary, or seasonal position; and determine if the position is funded with appropriations. Thereafter, the Town Supervisor will contact the Ulster County Civil Service to confirm that the job title is approved for the Town of Gardiner or, if the job title has not been approved, to request that the agency commence the approval process.

2.1.2 Notification of Vacancies: A position vacancy announcement will be posted on the Town's official bulletin boards and the Town's website. For certain positions, the Town Board may determine to advertise the vacancy or use other means to create a group of applicants.

2.1.3 Employment Applications: Misrepresentations, falsifications, or substantial omissions in the employment application may exclude the applicant from further consideration or, if employed, result in termination of employment.

2.1.4 References and Background Checks: Applicants will be required to complete and sign an employment verification information request form, background verification authorization form, hold harmless statement, and, when appropriate, a credit and consumer report authorization form. Thereafter, the Town Supervisor, or designee, will check the employment references of final applicants.

2.1.5 Appointment to Vacancies: Unless otherwise prescribed by the State of New York, the selection of internal and/or external applicants will be at the sole discretion of the Town Board.

2.2 Civil Service Agency

2.2.1 Web Link: The Rules and Regulations of the Ulster County Civil Service agency pertain to employees of the Town of Gardiner. More information may be found on the Ulster County website:

<http://ulstercountyny.gov/personnel/municipal-resources>

2.3 Oath of Office

2.3.1 Town Officer: Each Town Officer as defined in the Town Law and 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 position and be filed in the office of the Town Clerk within thirty calendar days of commencement of the term of office. Each official who is re-elected or re-appointed to a subsequent term must take the Oath of Office for each term.

2.3.2 New Employees: Each newly hired employee, except a temporary employee or seasonal employee, must take the Oath of Office. The Oath must be administered prior to commencing the duties of the position and be filed in the office of the Town Clerk within thirty calendar days of commencement of the term of office.

2.4 Probationary Period

2.4.1 Length of Probationary Period: An employee's original appointment to a position in the exempt, competitive, non-competitive, or labor class will be as prescribed in the rules and regulations of the Ulster County Civil Service agency. *An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the length of the probationary period.*

2.4.2 Successful Completion of Probationary Period: In accordance with Civil Service rules and regulations, following the completion of the maximum probationary period, the appointment will become permanent upon written notice that an employee has successfully completed the probationary period, unless the probationary period was extended in accordance with the rules and regulations of the Ulster County Civil Service agency.

2.4.3 Failure to Successfully Complete Probationary Period: The Town may dismiss an 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 is not satisfactory and such employee had previously been a permanent employee of the Town who had been promoted or transferred, the employee shall be returned to the employee's former permanent position at the end of the probationary period. *An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on failure to complete the probationary period.*

2.5 Seniority

2.5.1 Service Seniority: Whenever seniority is to be used in making an employment decision, seniority will be determined by the employee's length of continuous service with the Town of Gardiner. *An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the definition of seniority.*

2.5.2 Computation of Seniority: For the purpose of calculating the length of service of a full-time employee, one year will be credited for each year of service beginning on the employee's initial date of hire as a full-time employee.

For the purpose of calculating length of service of a part-time employee in an administrative position or clerical position, one year of service will be credited for every 2080 hours of paid work and paid leave.

An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the computation of seniority.

2.5.3 Same Length of Service: In the event two or more employees have the same length of service, the employee with the earliest day of hire will have greater seniority. In the event two or more employees have the same length of service and the date of hire, such employees will have their individual seniority determined by lot.

2.5.4 Leave of Absence: An employee will not accrue seniority while the employee is on an approved unpaid leave of absence beyond thirty calendar days or while the employee is in layoff status beyond thirty calendar days. Such leave will not be considered as a break in "continuous service".

2.5.5 Disability Leave: An employee who is on an approved leave of absence due to a Workers' Compensation injury or illness and is not drawing on paid leave credits will continue to accrue seniority as if the employee was in regular pay status.

2.6 Personnel File

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

2.6.2 Location of Files: All original personnel records for current employees will be kept in the Town Supervisor's office and will be maintained and controlled by the Town Supervisor. All Immigration (I-9) Forms will be kept in a separate file apart from employee's personnel file. All employee medical records will be kept in a separate locked file apart from the employee's personnel file and will be maintained and controlled by the Town Supervisor. All employee substance testing records will be kept in a separate file apart from the employee's personnel file and will be maintained and controlled by the Town Supervisor.

2.6.3 Change in Status: An employee must immediately notify the office of the Town Supervisor of a change of name, address, telephone number, marital status, number and age of dependents, beneficiary designations, and who to notify in case of emergency.

2.6.4 Employee Access: A current employee may review and copy the contents of the employee's own personnel file; however, access to certain documents may be limited, for example: an employee may not have unrestricted access to attorney work products, confidential memorandums, letters of reference, and unsolicited complaints. A current employee may review the contents of the employee's own personnel file by submitting a written request to the Town Supervisor. Someone authorized by the Town Supervisor must be present when the employee inspects the file. An employee may not copy, remove, or place any material in the employee's personnel file without the approval of the Town Supervisor. *An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on access to personnel files.*

2.7 Corrective Action and Discipline

2.7.1 Policy Statement: It is the policy of the Town of Gardiner 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. Corrective action may be necessary when an employee has violated a policy, rule, regulation, or procedure or has demonstrated performance deficiencies. Corrective action may include counseling or initiating formal disciplinary action against an employee.

2.7.2 Counseling: Counseling employees, rather than initiating formal disciplinary action, may be the appropriate first step in addressing misconduct or performance deficiencies. The purpose of counseling is to inform the employee of the misconduct or the performance deficiency, deter its recurrence, and inform the employee of the consequences if the conduct is repeated or the performance is not improved. 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.

2.7.3 Discipline: Depending on the circumstances, the Town will normally apply "progressive discipline" which may include, but is not limited to, a written reprimand, suspension without pay, demotion, or termination of employment. Notwithstanding the above, the Town has the right to discipline employees without engaging in progressive discipline if the situation so warrants and the right to impose penalties in any manner it deems appropriate.

2.7.4 Investigations: In most situations, an investigation will be conducted by the appropriate Department Head or other designated person. Unless otherwise authorized by the Town Board, employees who are participants in an investigation are not to disclose the content or particulars of the investigation. All employees are required to fully cooperate in the investigation and respond truthfully to all questions. Failure to cooperate and to be truthful may subject the employee to appropriate corrective action. The Town has the right to suspend an employee, with or without pay, while an investigation is conducted.

2.7.5 Due Process Procedures: Employees covered by **Section 75 of New York State Civil Service Law** will be disciplined in accordance with the procedures contained therein. *An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the subject of the disciplinary procedure, wherein the negotiated procedure is the only method of resolving challenges to disciplinary action and wholly replaces the provisions set forth in Section 75 and Section 76 of New York State Civil Service Law.*

2.8 Rules of Conduct

2.8.1 Prohibited Conduct: An employee who is found to have violated the policies, procedures, rules, or regulations communicated in the Employment Practices Compliance Manual or is found to have engaged in misconduct or has failed to correct poor performance may be subject to disciplinary action.

2.8.2 Per Se Violation: The actions listed in this section will generally be regarded as just cause for immediate termination of employment. This list is illustrative and is not intended to limit the Town's right to impose discipline in other appropriate cases.

- Harassing (including sexual harassment), intimidating, coercing, threatening, assaulting, or creating a hostile environment against another employee, Elected Official, resident of the Town, or any other person, whether on or in the Town premises.
- Possession, of weapons, including but not limited to firearms, explosives, or knives (except for pocket knives) on Town property or in Town vehicles.
- Possession, use, 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, 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, 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, Town Board, or resident of the Town.
- Gross insubordination or willful refusal to comply with lawful order or instruction of a Department Head.
- Violation and/or disregard of safety rules or safety practices in such a way that jeopardizes the safety of the employee, another employee, Elected Official, resident of the Town, or any other person.
- Unauthorized expenditure of Town funds.
- Illegal gambling while on duty.

2.8.3 Misconduct: An employee found to have committed any of the actions listed in this section will be subject to appropriate disciplinary action, including termination of employment. This list is illustrative and is not intended to limit the Town's right to impose discipline in other appropriate cases.

- Willful violation of Town's policies, procedures, rules, or regulations.
- Willful refusal to comply with the lawful order or instruction of a Department Head.
- Willful work slowdown, work stoppage, or interfering with or restricting the performance of another employee or in any other way interfering with Town operations.
- Sleeping on the job.
- Personal activity during paid work time without the expressed permission of the appropriate supervisor.
- 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.

2.9 Code of Ethics

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

2.10 Civil Service Law — Section 75

2.10.1 Summary: New York State Civil Service Law Section 75 establishes disciplinary procedures for covered employees. *An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the subject of the disciplinary procedure, wherein the negotiated procedure is the only method of resolving challenges to disciplinary action and wholly replaces the provisions set forth in Section 75 and Section 76 of New York State Civil Service Law.*

2.10.2 Covered Employees: The following employees are generally covered under Section 75:

- A newly hired employee who has not completed the minimum probationary period as determined by the Ulster County Civil Service agency.
- An employee holding a position by permanent appointment in the **Competitive Class** of the classified Civil Service;
- An employee holding a position in the **Noncompetitive Class** who has been employed for at least five years of continuous uninterrupted service in the non-competitive class, except when such an employee holds a position designated as confidential or policy influencing. 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.

2.10.3 Disciplinary Procedure: The following disciplinary procedure shall apply to employees covered by Civil Service Law Section 75. *An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the subject of the disciplinary procedure.*

- **Notice of Discipline** — An employee subject to discipline will be provided with a written Notice of Discipline (NOD) which will contain all charges and specifications.
- **Employee Answer** — The employee will have eight calendar days to respond to the charges. The employee's response must be in writing.
- **Disciplinary Hearing** — Unless there is a stipulation of settlement between the Town and the employee, the Appointing Authority will designate a hearing officer in accordance with Section 75 of Civil Service Law. 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 along with the hearing officer's recommendations for review and decision.

2.10.4 Right to Representation: The employee may have representation by counsel at the hearing and may summon witnesses on the employee's behalf.

2.10.5 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.

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

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

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

2.10.8 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 employee's personnel file. A copy will also be filed with the Ulster County Civil Service agency.

PART 3 OPERATIONAL POLICIES

3.1 Hours of Operation

3.1.1 Normal Hours of Operation: The Town Board establishes the normal hours of operation at the annual organizational meeting. An employee's Department Head will establish the employee's work schedule, which may differ from the normal hours of operation depending upon the particular needs and requirements of the department. The Town Board reserves the right to approve all employee work schedules, except where otherwise prohibited by applicable State or Town Law. *An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the subject of hours of work.*

3.1.2 Arrivals and Departures: Employees entering or leaving Town Hall must sign in or out.

3.1.3 Department Absences: In the event a department cannot be staffed at certain times during the day, basic departmental forms should be readily available for distribution and/or collection. It is the Department Head's responsibility to determine what services are to be provided and to schedule coverage of these basic services during scheduled business hours.

3.2 Emergency Situations

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

3.2.2 Closing Affect on Compensation: Pay for FLSA non-covered or exempt employees will not be affected by an emergency closing. Pay for FLSA non-exempt employees will be in accordance with the provisions below:

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

3.3 Meal and Rest Periods

3.3.1 Meal Periods: An employee who works more than six hours in a given day will receive a paid, duty-free meal period not to exceed thirty minutes.

3.3.2 Scheduling of Meal Periods: Scheduling of duty-free meal periods must be approved by the appropriate Department Head in accordance with the needs and requirements of the department. Meal periods will normally be in the middle of the employee's workday. An employee who must leave work during the paid, duty-free meal period must take such time as personal leave.

An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the subject of meal periods.

3.3.3 Rest Periods: Employees in **clerical or administrative positions** may take brief, informal breaks to attend to personal needs.

Employees in **labor-intensive positions** will normally receive a paid, duty-free rest period 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 in a **labor-intensive position** works beyond the employee's normal workday, the employee will normally receive an additional paid, duty-free rest period 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 period will not be entitled to leave before the normal quitting time and will not receive extra pay for the time worked.

An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement on the subject of rest periods.

3.3.4 Approval of Rest Periods: Rest periods will be designated by the appropriate Department Head in accordance with the needs and requirements of the department. Unless otherwise specified by departmental rules, all rest periods must be taken at the work-site and may not exceed the time allowed.

3.4 Time Records

3.4.1 Individual Time Records: All employees are required to complete an individual time record showing the daily hours worked and authorized paid leave taken. Each employee must comply with the following procedures:

- All time worked, including the beginning and ending time, must be recorded at the time kiosk;
- All paid and unpaid leaves of absence must be recorded;
- Employees must complete their own time record;
- The time record must be verified and signed by the Town Supervisor;
- The Department Head is to submit time records to the Bookkeeper by Friday at 4:00 p.m.

3.4.2 Correction of Errors: An employee must immediately bring errors in time records to the attention of the Department Head who will investigate the matter and make and initial the correction once the error has been verified.

3.4.3 Falsification of Time Records: An employee who falsifies or alters the employee's own time record or the time record of another employee, or completes a time record for another employee, may be subject to disciplinary action. In justifying circumstances where an employee is not able to complete the employee's own time record, the Department Head may complete the time record on behalf of the Employee.

3.5 Expense Reimbursement

3.5.1 Policy Statement: Upon proper authorization of the Town Board, an employee or Elected Official will be reimbursed for expenses associated with carrying out Town business, including, but not limited to, meals, lodging, mileage, parking, highway tolls, and training and membership fees. All required documentation and corresponding receipts must be submitted to the Bookkeeper by the first business day of each month in order for the reimbursement to be processed.

3.5.2 Mileage: 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 then current mileage rate set by the Internal Revenue Service.

3.5.3 Education and Training: Upon proper authorization of the Town Board, an employee will be reimbursed for training courses that are directly related to the employee's present job. Employees must first seek approval from their Department Head before the request is presented to the Town Board. *An employee who is a member of a collective bargaining unit is not covered by or eligible for this Education and Training provision.*

3.5.4 Required Membership Fees: Upon proper authorization of the Town Board, an employee required to hold membership in a professional organization as part of the employee's job will be reimbursed for any required dues and/or fees. *An employee who is a member of a collective bargaining unit is not covered by or eligible for this Membership Fees provision.*

3.5.5 Association of Towns Meeting: Upon proper authorization of the Town Board, an employee or Elected Official who attends the annual meeting conducted by the Association of Towns will be reimbursed for all reasonable expenses. The Town Board will select delegates to this meeting.

3.6 Supplies, Tools, and Equipment

3.6.1 Supplies: An employee **may not** use office supplies for personal use, including, but not limited to, paper, envelopes, and postage.

3.6.2 Office Tools and Equipment: An employee may use computers, fax machines, and copiers for personal use but not for furtherance of any business or personal financial gain. If the fax transmission is long distance, the employee must reimburse the Town for the cost of the call. The employee is responsible for the proper care of all equipment while it is being used for personal use and must repair or replace any equipment damaged by the employee as a result of negligence or intentional misuse.

3.6.3 Mechanical Tools and Equipment: An employee may not use the Town Garage or tools and equipment for personal use. An employee must repair or replace any tool either lost or damaged by the employee as a result of negligence or intentional misuse.

3.6.4 Fuel: An employee **may not** use gasoline, fuel oil, or motor oil for personal use or for any other vehicle not owned by the Town.

3.7 Vehicle Usage Policy

3.7.1 Use of Town Vehicles: Vehicles owned, leased, or rented by the Town are assigned to an employee for the sole purpose of conducting Town business. Only authorized employees may drive Town vehicles. Town vehicles may only be used for authorized Town business and may not be used for the personal use or private gain or to transport unauthorized individuals or materials, except as noted below.

3.7.2 Use of Personal Vehicle for Town Business: The Town is not responsible for any damage to an employee's personal vehicle while on Town business. [Note: the mileage rate set by the Internal Revenue Service includes the cost of fuel, maintenance, insurance, etc.].

Therefore, an employee who drives a personal vehicle to conduct Town business must have auto liability insurance (for both bodily injury and property damage) and proof of a minimum policy for liability coverage of \$100,000 per person and \$300,000 per accident. Proof of such insurance is required upon hire and on an annual basis thereafter. In the event an employee's liability insurance lapses, the employee must immediately notify the Town Supervisor.

3.7.3 Traffic Violation: An employee is responsible for paying the cost of any traffic or parking tickets, moving violations, or fines that result from driving while on Town business.

3.7.4 Accident: An employee must notify the Town Supervisor immediately in the event of an accident, theft, or damage involving vehicle owned, leased, or rented by the Town or the employee's own personal vehicle being used for Town business, regardless of the extent of the damage or lack of injuries. A law enforcement officer must be summoned to the scene of any accident involving a Town employee or vehicle being used for Town business. The employee must cooperate with any law enforcement officer who is investigating the accident but should not make any statements or provide information to anyone else. An Accident Report from the police must be submitted to the Town Supervisor.

3.7.5 Town Vehicle Maintenance: Employees are responsible for maintaining Town vehicles in a neat and clean condition at all times. Papers and garbage must be removed from the vehicle at the end of each trip. Vehicles should be maintained in a safe and secure condition when not in use. It is the employee's responsibility to notify the Town Supervisor of any needed maintenance or repair work on a Town vehicle.

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 that have been authorized by the Town Board.

3.7.6 Policy Violations: Violations of this policy may result in loss of vehicle driving privileges and/or disciplinary action, up to and including termination of employment.

3.8 Driver's License

3.8.1 Requirement to Possess a Driver's License: An employee who is required to drive a vehicle owned, leased, or rented by the Town or the employee's own personal vehicle to conduct business on behalf of the Town, must possess a valid New York State driver's license at the time of appointment and must maintain a valid license throughout employment. Proof of such license must be on file with the Town.

The driving records of applicants and employees who apply for positions that involve driving as a part of job duties are checked following a conditional offer of employment. Thereafter, the Town conducts motor vehicle record checks on a regular basis.

3.8.2 Loss or Suspension of Driver's License: An employee who is required to possess a driver's license in order to perform certain job duties and responsibilities must immediately notify the Town Supervisor in the event the license is suspended, revoked, or if the employee is otherwise disqualified from driving. The loss or suspension of the driver's license may affect the employee's continued employment with the Town, including termination of employment for inability to perform the duties of the job.

3.8.3 Suspension of Driving Privileges: An employee's driving privileges may be suspended for receiving an excessive number of traffic citations, regardless of whether the citations were received while driving on Town business. If an employee's driving privilege is suspended and the employee's position requires use of a vehicle, the employee's continued employment with the Town may be affected, including termination of employment for inability to perform the duties of the job.

3.8.4 Requirement to Possess a Commercial Driver's License: An employee who operates a vehicle which requires a Commercial Driver's License (CDL) must maintain such license.

3.8.5 Loss or Suspension of Commercial Driver's License: An employee who is required to possess a Commercial Driver's License in order to perform certain job duties and responsibilities must immediately notify the Town Supervisor in the event the employee's driver's license is suspended, revoked, or if the employee is otherwise disqualified from driving. The loss or suspension of the employee's driver's license may affect the employee's employment with the Town, including termination of employment for inability to perform the duties of the job. In accordance with the federal Commercial Motor Vehicle Safety Act, an employee who is required to possess a Commercial Driver's License must notify the Town Supervisor within thirty calendar days of a conviction of any traffic violation (except parking) no matter where or what type of vehicle the employee was driving.

3.9 Telephone / Cell Phone Usage

3.9.1 Guidelines:

If an office is unable to have someone personally answer calls, arrangements must be made with another office for telephone coverage or an answering device must be in operation;

An employee **may not** make or receive personal telephone calls during work hours, except in an emergency or to check briefly on family matters;

An employee **may not** make or receive personal calls on a Town-provided telephone or cell phone, except in an emergency. The employee must reimburse the Town for the cost of the call.

3.9.2 Personal Cell Phones: Personal cell phones must be turned off or in the silent mode when in Town Hall.

3.10 Adverse Correspondence

3.10.1 Notice to Town Supervisor: An employee who receives verbal or written communication of a negative nature must notify the Town Supervisor as soon as possible, but no later than the next business day.

3.11 Computer Systems

3.11.1 Usage: All computer systems, hardware, software, and files are the property of the Town of Gardiner; this includes the messages created, transmitted, and stored on such systems and equipment. Computer systems, hardware, and software provided to an employee are for the purpose of aiding an employee in the performance of the employee's job functions. No unauthorized or unlicensed hardware or software may be used or installed on any computer.

3.11.2 Inspection: There is no privacy when using computer systems and equipment. A Department Head has the authority to inspect the contents of any computer equipment, electronic files, and electronic mail of employees in the normal course of the Department Head's supervisory responsibilities. In addition, the electronic files and electronic mail of Department Heads may be inspected at the direction of the Town Board.

3.11.3 Prohibited Uses: The following uses of Town-owned computers and equipment are prohibited. This list is meant to be illustrative, and not exhaustive.

- Any illegal activity;
- Threats or harassment;
- Slander or defamation;
- Transferring of obscene or suggestive messages or graphical images;
- Commercial activity;
- Unauthorized accessing or attempting unauthorized access of another person's files;
- Unauthorized use or aiding in the unauthorized use of another person's password;
- Harming or destroying files or data (other than editing or deleting information in the normal course of one's job duties).

3.12 Internet Systems

3.12.1 Inspection: There is no privacy of e-mail and Internet usage. All files and Internet usage are subject to inspection and/or monitoring by Department Heads or at the direction of the Town Board. An employee who is required to have a password must submit that password to the appropriate Department Head.

3.12.2 Prohibited Uses: An employee **may not** send personal e-mail messages. In addition to the prohibitions set forth in the section on Computer Systems above, any activities prohibited for any other general computer user are also prohibited with respect to Internet usage.

3.12.3 Social Media: An employee must receive prior approval from the Town Board, or its designee, to create content that pertains to Town business on a social media site.

3.13 Solicitations/Distributions

3.13.1 During Work: An employee may not distribute literature or solicit other employees during working hours.

3.13.2 Political Literature: An employee may not distribute political campaign materials at any time on property owned, leased, or operated by the Town.

3.14 Visitors

3.14.1 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 period as long as such visit does not interfere with Town operations or interrupt other employees who are still working.

3.15 Personal Property

3.15.1 Policy Statement: An employee is not to bring unnecessary or inappropriate personal property to work.

3.15.2 Inspections: Desks, lockers, and other storage areas may be provided for the convenience of employees but they remain the sole property of the Town. The Town is not responsible for loss or damage to personal property placed in such storage devices. In the event the Town has reasonable suspicion to believe there are drugs, alcohol, weapons, or stolen property in such storage areas, the Town can inspect such storage devices, as well as any articles found within them, at any time, with or without notice. The inspection will normally be done by two representatives of the Town and may or may not be made in the presence of the employee.

3.16 Town Property

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

- Equipment, including protective equipment
- Keys
- Books or other Reference Materials
- Identification Badges
- Uniforms

3.16.2 Return of Property: All Town property must be returned to the Town before the employee's last day of work.

3.17 Maintenance of Work Area

3.17.1 Employee Responsibility: Employees are responsible for maintaining their work area in a safe and orderly fashion. For example:

- Maintain the worksite or work area in such a manner so as to not create or contribute to unsafe, insecure, or unsanitary conditions;
- Place coats, boots, umbrellas, and other items of clothing in designated areas so that work areas are not unnecessarily cluttered;
- Consume food only in designated areas so that work areas are kept free of food and related litter;
- Clean and store all tools and equipment and properly store any items, papers or confidential information.

3.18 Personal Appearance

3.18.1 Standards: An employee must maintain a personal appearance in a manner that reflects a good image to the public. The Town Supervisor and/or Department Head will have the authority to determine what is appropriate and what is not.

3.19 Unauthorized Work / Outside Employment

3.19.1 During Working Hours: An employee may not perform work for any entity other than the Town during the employee's assigned duties.

An employee may not receive any income or material gain for materials produced or services rendered while performing the employee's duties for the Town.

3.19.2 During Non-Working Hours: An employee may engage in other employment during nonworking hours provided such employment does not interfere with the employee's performance standards, pose an actual or potential conflict of interest, or compromise the interests of the Town. The employee must inform the Town Supervisor of any outside employment in order to prevent a possible conflict of interest.

An employee may not use Town-owned equipment, supplies, or other property, including any item that identifies the employee as working for the Town, to perform work for another entity or for the employee's own monetary gain.

PART 4 ABSENCE POLICIES

4.1 Attendance

4.1.1 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 appropriate Department Head as soon as possible before the employee's scheduled starting time. The reason for tardiness and the expected time of arrival must be indicated to the Department Head.

4.1.2 Unscheduled Absences: An employee who is unable to report to work must personally notify the appropriate Department Head as soon as possible before the employee's scheduled starting time. The employee must speak directly with the Department Head, unless the Department Head authorizes the use of an answering device for this purpose, indicating the reason for the absence and when the employee expects to return to work. Asking another person to call in on the employee's behalf is not permitted. Notification requirements may be waived in cases of emergency.

An employee who has frequent unscheduled absences may be required to provide documentation of the reason for any future absences.

4.1.3 Unexcused Absences: Notification of an absence to the Department Head does not automatically mean the absence is authorized. Any time off from work that is without approval of the appropriate Department Head is considered an unexcused absence. An unexcused absence is without pay and may result in disciplinary action, up to and including termination.

4.1.4 Daily Notification: In the event an employee is unable to report to work, the employee must notify the appropriate 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.

4.1.5 Leaving Work: An employee must obtain prior approval from the appropriate Department Head to leave an assigned worksite during working hours due to a non-work-related reason.

4.2 Jury Duty Leave

4.2.1 Federal Jury Duty: A full-time employee who is required to serve on Federal jury duty, as certified by the Clerk of the Court, will be paid the difference between the employee's regular daily rate of pay and jury duty pay.

4.2.2 State or Local Jury Duty: In the event a full-time employee or part-time employee is required to serve on jury duty on a day the employee is scheduled to work, the employee will receive a leave of absence without loss of pay or leave credits. The employee is obligated to notify the Commissioner of Jurors that the Town is paying the employee for lost time worked during jury duty. A temporary or seasonal employee **will not** receive paid jury duty leave; however, such employee will be given time off for jury duty.

4.2.3 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 appropriate Department Head.

4.2.4 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

4.3 Family and Medical Leave Policy

4.3.1 Statement of Compliance: The Town of Gardiner applies the provisions of the Family and Medical Leave Act (FMLA) and Civil Service Law when administering leaves under this policy.

4.3.2 Summary: FMLA allows an eligible employee 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 working conditions, provided the employee returns to work immediately following such leave.

4.3.3 Types of Unpaid Leave: An eligible employee will receive an unpaid leave under the following circumstances:

- **Sick Leave of Absence** — An employee who is 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, an employee 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 the Office of the Town Supervisor for further details regarding this provision.

- **Parental Leave of Absence** — A female employee, when not disabled by pregnancy or childbirth (see above), and a male employee 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** — An employee 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.

4.3.4 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
- Spouses who both work for the Town of Gardiner 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 parent, during any twelve month period.

4.3.5 Definitions: The following terms are fully defined in the Federal Regulations on the Family and Medical Leave Act, 29 CFR Part 825. For the purpose of this policy, the following definitions will apply:

- Serious Health Condition will mean an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility including any period of incapacity (as contained in the Federal Regulations), 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;
 - 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 (as defined in the Federal Regulations) 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.

4.3.6 Notification Requirements: If the need for leave is foreseeable, the employee must give notice, in writing, to the Town Supervisor at least thirty calendar days prior to the commencement date of the unpaid leave. The employee must complete the **Leave of Absence Request Form** and submit the form to the Town Supervisor for review. The failure of an employee to give the thirty-day notice with no reasonable excuse for the delay may result in the delay of the employee taking the leave until thirty calendar days from the date of notice. When the need for leave is unforeseeable, verbal notice to the Town Supervisor will be allowed.

4.3.7 Status Reports: The employee must periodically update the Town Supervisor as to the employee's status and intent to return to work.

4.3.8 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, within 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. Medical certification forms are available from the Office of the Town Supervisor. 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 Supervisor may 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 Supervisor may, again at the Town's expense, obtain a third opinion from a health care provider approved jointly by the Town Supervisor and the employee. This third opinion will be final and binding.

4.3.9 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.

4.3.10 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.

4.3.11 Employment Restrictions During Leave of Absence: While on an approved unpaid leave, the employee may not be employed by another entity during the same hours that the employee was normally scheduled to work for the Town of Gardiner.

4.3.12 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 FMLA 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 credits and then all vacation leave credits, which will be included in the maximum twelve-week period. However, in the event that the paid leave credits are greater than the maximum twelve-week period, an employee may use paid leave credits to extend the leave of absence beyond the twelve-week period, up to a maximum of one year. If, after the completion of the one-year leave of absence, the employee is medically unable to return to work (as determined by a health care provider) and the employee has leave credits remaining, the Town Board may authorize an extension of the employee's leave of absence until such benefits are exhausted. However, job reinstatement beyond the one-year leave of absence is not automatic and will be dependent upon job availability, in accordance with Civil Service Law Sections 71, 72 and 73, as applicable, and the rules and regulations of the Ulster County Civil Service agency.

4.3.13 Medical Insurance: During the period of authorized FMLA designated leave, an employee's eligibility status for medical insurance coverage will not change for up to a maximum of twelve weeks. (In the event the employee has accumulated paid leave credits that extend beyond the twelve-week period, the employee should refer to section in the Town's *Compensation and Benefits Manual* pertaining to Short Term Disability or Workers' Compensation regarding additional medical insurance coverage provisions.) The employee's premium copayments must be paid on a timely basis in order to maintain the continuous coverage of benefits. Premium copayments will be at the same level as if the employee was working. Coverage will cease if premium copayments are not made within a thirty-calendar day grace period of the due date. In the event the employee fails to return to work after the authorized leave of absence period has expired, provisions of COBRA will apply. In addition, the Town may recover the premium payments it paid 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.

4.3.14 Workers' Compensation and Short-Term Disability Benefits: Leaves taken under the Workers' Compensation Law or the Town's Short-Term Disability Policy may invoke the FMLA if the employee meets the eligibility criteria outlined in the eligibility section and the Town designates such leave as FMLA leave and properly notifies the employee of such designation. In accordance with the FMLA, if an employee has elected to receive Workers' Compensation benefits or short-term disability benefits, the Town cannot require the employee to substitute paid leave credits during this period of leave. If the Workers' Compensation leave or short-term disability leave has been properly designated as FMLA leave by the Town, it can be counted against the employee's FMLA leave.

In addition to leave provided under the Family and Medical Leave Act, 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. Employees should consult with the Town Supervisor for further details regarding this provision.

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

- **Job Restoration** - At the conclusion of an FMLA leave of absence and provided that the employee returns to work immediately following such leave, the employee 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 one year, job restoration will be dependent upon job availability, in accordance with Civil Service Law Sections 71, 72 and 73, as applicable, and the rules and regulations of the Ulster County Civil Service agency.
- **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 Town Supervisor at least five business days prior to the date the employee is able to return.

4.4 Unpaid Leaves of Absence

4.4.1 General Terms: Absences taken beyond an employee's leave accruals shall be considered unauthorized (AWOL) unless prior written approval has been given from the Town Board. Subject to the approval of the Town Board, unpaid leaves of absence may be available to an employee for personal reasons including, but not limited to, personal illness, family responsibilities, and education.

4.4.2 Request for Unpaid Leave: The employee must submit such request and the reasons for the leave, in writing, to the Town Supervisor as soon as reasonably possible prior to planned commencement of the requested leave. The Town Board has sole discretion in approving such leave.

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

PART 5 COMPLIANCE POLICIES

5.1 The Americans with Disabilities Act

5.1.1 Policy Statement: It is the policy of the Town of Gardiner to comply 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 recall, 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.

5.1.2 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. An employee who believes an accommodation is needed to perform the essential functions of the employee's job should contact the Town Supervisor.

5.1.3 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. Preemployment physical exams will only be requested when in compliance with the law.

5.1.4 Complaint Procedure: An employee who believes that the actions or words of an employee or non-employee have violated this policy should immediately report the behavior to the Town Supervisor. Refer to Section 5.5 - Complaint Procedure and Investigations for information regarding how to file a complaint and the Town's investigation procedures.

5.1.5 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.

5.2 Equal Employment Opportunity

5.2.1 Policy Statement: The Town of Gardiner is an Equal Opportunity Employer. The Town does not unlawfully discriminate on the basis of a person's race, religion, color, sex, age, national origin, marital status, pregnancy, veteran status, arrest/conviction record, disability, genetic predisposition or carrier status, sexual orientation, or any other protected class or status. This policy applies to all terms and conditions of employment including, but not limited to, recruiting, hiring, placement, promotion, termination, layoff, transfer, leave of absence, compensation, benefits, training, and social and recreational programs.

5.2.2 Complaint Procedure: An employee who believes that the actions or words of an employee or non-employee have violated this policy should immediately report the behavior to the Town Supervisor. Refer to Section 5.5 - Complaint Procedure and Investigations for information regarding how to file a complaint and the Town's investigation procedures.

5.2.3 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.

5.3 Fair Treatment

5.3.1 Policy Statement: Town of Gardiner recognizes the rich diversity of its employees and the varying cultures, backgrounds, and experiences they each bring to the workplace. The Town is committed to maintaining and promoting a work environment where similarities and differences are respected and valued. The Town will not tolerate harassment or discrimination of any kind in the workplace.

5.3.2 Employee Responsibilities: An employee is expected to treat coworkers, customers, vendors, suppliers, and other non-employees that the employee comes in contact with on the job with fairness, dignity, and respect. The Town prohibits any form of discrimination, harassment, or other offensive behavior targeted towards an individual based on legally protected factors, including but not limited to: race, religion, color, sex, age, national origin, marital status, pregnancy, veteran status, arrest/criminal record, disability, genetic predisposition or carrier status, or sexual orientation.

5.3.3 Complaint Procedure: An employee who believes that the actions or words of an employee or non-employee have violated this policy should immediately report the behavior to the Town Supervisor. Refer to Section 5.5 - Complaint Procedure and Investigations for information regarding how to file a complaint and the Town's investigation procedures.

5.4 Sexual Harassment

5.4.1 Policy Statement: The Town of Gardiner is committed to maintaining a professional work environment where employees and non-employees are free from any form of harassment, including sexual harassment. The Town takes all necessary measures to prevent sexual harassment in the workplace or, in the event it occurs, to stop the conduct immediately. The complaint procedure in Section 5.5 is intended to provide an effective mechanism for reporting and resolving promptly, complaints of sexual harassment without any risk of repercussion to a complaining employee for filing a complaint of sexual harassment in good faith.

5.4.2 Applicability of Policy: This policy applies to all Town employees and Elected Officials regardless of supervisory level. 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.

5.4.3 Supervisory Responsibility: Department Heads are responsible for providing a work environment that is free from unsolicited, unwelcome, and intimidating behavior, including behavior of a sexual nature. A Department Head must therefore take immediate and appropriate corrective action in the event the Department Head is a witness to, or becomes aware of, any violations of this policy. The Department Head is also responsible for immediately notifying the Town Supervisor of any policy violations.

5.4.4 Definition of Sexual Harassment: The Equal Employment Opportunity Commission (EEOC) defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature to an individual of the same or opposite gender when:

- Submission to such conduct is made either explicitly or implicitly a term or 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 (e.g., promotion, termination, pay increase) affecting that individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Further, 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 employee's 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.

5.4.5 Forms of Sexual Harassment: Unprofessional, inappropriate, or offensive conduct committed by a supervisor, coworker, vendor, supplier, visitor, or any other non-employee is prohibited, even if the conduct is welcome by the recipient(s). Prohibited conduct includes, but is not limited to:

- A supervisor threatening or implying that a subordinate's acceptance or refusal of the supervisor's sexual advances will affect the subordinate's terms or conditions of employment (e.g., promotion, demotion, pay increase, termination).
- 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.

5.4.6 Complaint Procedure: An employee who believes that the actions or words of an employee or non-employee have violated this policy should immediately report the behavior to the Town Supervisor. Refer to Section 5.5 - Complaint Procedure and Investigations for information regarding how to file a complaint and the Town's investigation procedures.

5.4.7 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 this Employment Practices Compliance Manual.

5.4.8 Disciplinary Action: Any employee or official who is found to have committed an act of sexual harassment will be subject to disciplinary action, including termination of employment.

5.5 Complaint Procedure and Investigations

5.5.1 Policy Statement: Town of Gardiner takes all complaints of discrimination, harassment, and sexual harassment seriously. A comprehensive complaint procedure has been developed to address any complaints received from employees and non-employees. This procedure is not intended to restrict an individual's rights to make a complaint to a federal or state agency.

5.5.2 Reporting Policy Violations: An employee who believes that the actions or words of a supervisor, coworker, vendor, supplier, visitor, customer, or any other non-employee has violated the Town's ADA, Equal Employment Opportunity, or Diversity and Fair Treatment, or Sexual Harassment policy should immediately report any perceived violation of this policy to the Town Supervisor. In the event the employee is unable to discuss this matter with the Town Supervisor, the complaint should be reported in writing to a member of the Town Board.

5.5.3 Investigation of Complaint: Generally, investigation of a complaint will be conducted by someone appointed by the Town Supervisor. In the event the Town Supervisor is named in the complaint or is involved in the incident, the Town Board will appoint an individual to conduct the investigation. All complaints will be investigated discreetly and promptly. An investigation generally involves talking with the parties involved as well as any witnesses. All employees are required to cooperate in an investigation.

5.5.4 Confidentiality: Complaints will be handled and investigated 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 Town employment who is not directly involved in the investigation of the complaint unless otherwise required by law. An employee's confidentiality will be protected to the greatest extent possible, consistent with conducting a full investigation. However, the Town cannot guarantee complete confidentiality.

5.5.5 Retaliation: Town of Gardiner will not retaliate, intimidate, coerce, threaten, discriminate, or otherwise take any adverse employment action against an employee who files a complaint or who participates in an investigation. Likewise, the Town prohibits an employee from retaliating against a coworker or non-employee for filing a complaint and/or participating in an investigation.

5.5.6 Policy Violations: Any employee who violates the Town's ADA, Equal Employment Opportunity, or Diversity and Fair Treatment, or Sexual Harassment policy or who retaliates against a coworker or non-employee will be subject to disciplinary action, including termination of employment.

5.6 Drug-Free Workplace

5.6.1 Statement of Compliance: 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 the following policy and drug-free awareness program:

5.6.2 Policy Statement: It is the policy of the Town of Gardiner that the unlawful manufacture, distribution, dispensation, possession, or use of an illegal controlled substance as defined in the Federal Act, is prohibited on the job or at the workplace.

5.6.3 Sanctions: The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is strictly prohibited in all workplaces and work-sites. An employee who is found to have violated this prohibition may be referred for counseling or rehabilitation and satisfactory treatment and/or may be subject to criminal, civil and disciplinary penalties, including termination of employment.

5.6.4 Notification of Federal Agency: Each employee must abide by this policy and notify the Town Supervisor of any criminal drug statute conviction for a violation occurring in the workplace within five calendar days of the conviction. Thereafter, the Town will notify the granting federal agency within ten calendar 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 substance abuse or rehabilitation program pursuant to Sections 702 and 703 of the Drug-Free Workplace Act.

PART 6 DISPUTE RESOLUTION

6.1 Dispute Resolution Procedure

6.1.1 Definition of Dispute: For the purpose of this Employment Practices Compliance Manual, a "dispute" will mean a claimed violation, misinterpretation, or inequitable application of any of the expressed provisions of this Employment Practices Compliance Manual.

6.1.2 Step One: An employee who claims to have a dispute may present the dispute to the Town Supervisor. The dispute must be submitted, in writing, within thirty calendar days from knowledge of the occurrence or from when the employee should have had knowledge.

The written dispute must specify the date of submission, the name of the employee, the date the dispute arose, the nature of the dispute, the provision of the Employment Practices Compliance Manual that was allegedly violated, misinterpreted, or inequitably applied, a statement of facts (including dates), and the remedy sought.

Within seven calendar days after receiving the dispute, the Town Supervisor will meet with the employee. Within seven calendar days after the meeting, the Town Supervisor will issue a written response to the dispute, which will be given to the employee and placed in the employee's personnel file.

6.1.3 Step Two: In the event the employee is not satisfied with the response from the Town Supervisor, 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 calendar days from receiving the response from the Town Supervisor, or from when said response should have been received. The Request for Hearing must include a written statement of the dispute as outlined in Step One, above.

The Town Board will set the time and place for the hearing. The conduct of the hearing will be under the exclusive jurisdiction and control of the Town Board. All decisions rendered by the Town Board will be final and binding.

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

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

6.1.4 Union-Represented Employees: *An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement to determine if the employee's dispute may be subject to the grievance procedure contained in the collective bargaining agreement.*

TOWN OF GARDINER
EMPLOYMENT PRACTICES COMPLIANCE MANUAL
ACKNOWLEDGMENT

I hereby acknowledge that I have received a copy of the Town of Gardiner Employment Practices Compliance Manual which communicates important information about the Town's employment policies and practices. I further acknowledge that I have read, or will read, the contents of the Employment Practices Compliance Manual and will contact the Town Supervisor if I have any questions.

I understand that the Employment Practices Compliance Manual does not create a contract of employment. I understand that the Town Board retains the right to interpret any part of the Employment Practices Compliance Manual and to amend or eliminate any part of the manual.

If I am covered by a collective bargaining agreement between the Town of Gardiner and an employee organization, I understand that in the event an expressed provision within the collective bargaining agreement should conflict with an employment policy or practice within the Employment Practices Compliance Manual, the expressed provision of the collective bargaining agreement will control. If not, unless expressly excluded within a given section of the Employment Practices Compliance Manual, the Employment Practices Compliance Manual will apply to all employees.

I agree to abide by the personnel policies, procedures, rules and regulations communicated in the Employment Practices Compliance Manual.

I understand that the Employment Practices Compliance Manual replaces any previous manual issued by the Town concerning the policies and practices contained within the Employment Practices Compliance Manual

Employee name (please print)

Employee Signature

Date of Signature