

TOWN OF NEWCASTLE

PERSONNEL POLICY

MANUAL

BOARD OF SELECTMEN

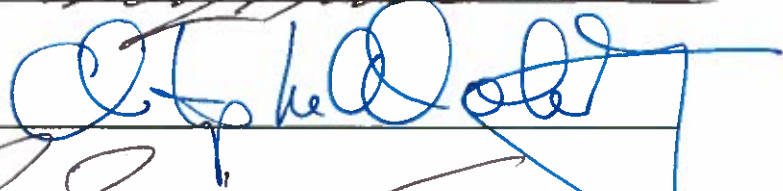
Brian Foote, Chair



Carolyn Hatch, Vice



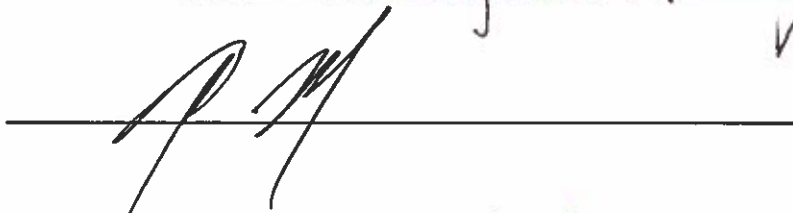
Christopher Doherty



R. Benjamin Frey



Joel Lind



APPROVED:

8/22/16

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I. PREAMBLE

- A. The Board of Selectmen hereby adopts the following policy for utilization by the Town of Newcastle in the administration of the personnel activities of all employees, committee members, board members (including selectmen) and volunteers. These rules and subsequent modifications shall supersede any policy and rules made previously by the Board of Selectmen. This policy may be modified by the Board of Selectmen at its discretion and may be further modified by town voters.
- B. The purpose of prescribing these rules and regulations is to set forth a uniform and equitable system of personnel administration for the Town of Newcastle, to promote more effective and efficient municipal operations on behalf of the citizenry, and to pursue positive employee morale.
- C. The Board of Selectmen may delete, amend, modify or change any or all of the policy by posting the proposed change in a conspicuous place at the Newcastle Town Office and by enclosing such a notice with all employee paychecks at least thirty (30) calendar days in advance of the meeting at which the Board of Selectmen propose to make modifications or changes. Changes may be made only with approval by a majority of the Board of Selectmen with all five (5) members present at the time of voting.
- D. A copy of this policy shall be provided to all employees upon the commencement of their employment and any amendment or revision of this policy shall be provided to all employees as amendments or revisions become effective.
- E. All employees will sign a receipt within one week of being given a copy of the policy, which receipt shall confirm that the employee has read the policy and has been given an opportunity to discuss with the Town Administrator any portions of the policy which the employee feels needs clarification.

II. EMPLOYMENT

- A. The employment of personnel shall be the responsibility of the Board of Selectmen, following recommendations of the Town Administrator.
- B. All applicants must submit a written and completed application form. In the presence of a resume the applicant must fill out an application form if any information is missing from the resume.
- C. All employees are considered probationary for the first six (6) months of employment. The probationary period shall be considered an extension of the selection process. Probationary employees may be removed at any time during the probationary period without cause and without right to file a grievance.
- D. An applicant who has been convicted of a felony may be excluded from employment if the Selectmen determine that the applicant's conviction bears upon his or her ability to faithfully perform the proposed duties of the job.
- E. Hiring, firing and disciplinary action, except for those positions precluded by Maine State Law, shall be the responsibility of, and at the discretion of, the Town Administrator following review and approval by the Board of Selectmen. The employee shall be notified of such action in writing.
- F. Employees shall be mindful of the fact that they are representatives of the Town of Newcastle and that their actions reflect on the public image of the Town as a whole. Employees shall conduct themselves in a respectful and helpful manner at all times and shall exhibit appropriate behavior during all communications and conduct with the public.

III. EMPLOYMENT DISCRIMINATION

Policy: It is the policy of the Town to offer equal employment opportunities to all job applicants and employees. Appointments and promotions are based solely upon qualifications and experience and are free of consideration of race, color, religion, gender, age, marital status, national origin, or disability.

Procedure: Any complaints alleging unlawful discrimination shall be submitted in writing to the Town Administrator who will arrange a meeting with the aggrieved party to discuss the matter. The meeting shall take place within five (5) business days from receipt of a written complaint. All information will be held in confidence and will be discussed only with those who have a need to know in order to either investigate or resolve the complaint. The Town Administrator shall have ten (10) business days from receipt of a written complaint to conduct an investigation and to attempt to resolve the matter to the satisfaction of the aggrieved party.

If the Town Administrator is unable to resolve the matter to the satisfaction of the aggrieved party within ten (10) business days of receipt of the complaint, the aggrieved party may submit a copy of the written complaint to the Board of Selectmen. Such a submission shall be made within fifteen (15) business days of the original complaint to the Town Administrator. If a complaint involves the conduct of the Town Administrator, it may be submitted directly to the Board of Selectmen without first being submitted to the Town Administrator.

The Board of Selectmen shall then have fifteen (15) business days from receipt of the written complaint to conduct an investigation and to issue a report, with its findings and recommendations, to the Town Administrator. The Town Administrator shall, within five (5) working days of the receipt of the report, notify the aggrieved party of the results of the investigation conducted by the Board of Selectmen.

IV. TYPES OF APPOINTMENT

- A. FULL TIME – A full-time employee works 35 to 40 hours per week on a continuing basis. He or she is subject to all personnel rules and regulations as set forth in this document and at the discretion of the Town Administrator for the safety of the employees of the town and for the welfare of the town in performing town business. This classification shall be assigned at the discretion of the Town Administrator. The employee receives all benefits and rights as provided by these rules.
- B. REGULAR PART-TIME – An employee in this classification works less than the normal workweek of 35 to 40 hours but on a continuing basis. He or she is subject to all personnel rules and regulations set forth in this document and at the discretion of the Town Administrator for the safety and welfare of the Town and Employee in performing Town business. This classification shall only be assigned at the discretion of the Town Administrator. The Board of Selectmen, following recommendation by the Town Administrator, may grant additional benefits.
- C. TEMPORARY EMPLOYEES – Seasonal/temporary employees work on a non-permanent basis, usually within a limited time frame; seasonal employees work in an industry designated by the State of Maine as a seasonal industry. The employee is terminated at the end of the applicable season. They are not entitled to benefits such as retirement, health insurance, holiday pay, accrual of sick leave and vacation time, or seniority, unless mandated by the Stat Worker’s Compensation and Unemployment Compensation Insurance Laws. They may be terminated for any reason at any time. This classification may be assigned at the discretion of the Town Administrator.
- D. OTHER EMPLOYEES – All committee members, board members, volunteers, those working on stipend pay and those paid from fees collected by the Town of Newcastle are employees as well.

V. ANNOUNCEMENT OF VACANCIES

Recruitment notices shall be prepared setting forth a basic description of the position, minimum qualification requirements or education, skill, and experience preference, application steps to follow, and closing date for submitting application materials. Such notices shall affirm the Town of Newcastle as an Equal Opportunity Employer. Such notice shall first post on bulletin boards in each town work site. Supervisors shall be aware of promotion-ready employees and shall encourage application where appropriate. Notice may be given outside the town office if necessary to develop a broad base of applicants. The use of such various media or publicity may be expected to bring notice of vacancies to an adequate number of qualified applicants. The media may include, but are not limited to, newspapers and professional journals.

VI. PUBLIC AND EMPLOYEE RELATIONS

- A. Town employees are public servants and the residents and the general public must be treated with courtesy, kindness and consideration. Every employee should remember that he or she might be the only contact a resident has with his or her local government. The impression that the employee makes will be long lasting and possibly determine how the resident feels about the local government. Failure of an employee to act with reasonable courtesy may result in disciplinary action or termination depending on the severity of the incident. Employees are expected to practice a high level of personal hygiene, dress neatly and conduct themselves in a professional manner.
- B. Employees are prohibited from engaging in any conduct, which could reflect unfavorably upon the town or disrupt the efficient operation of town administration. 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 allowing complete impartiality in conducting town business.
- C. Cooperation, courtesy and responsibility shall extend to relations between all employees of the Town and to the Public.
- D. The following policies and regulations are provided to assist the employees and Town Administration in functioning at peak efficiency with minimal cost to the taxpayers:
 - 1. Receipt of gifts: A Town employee is prohibited from soliciting or accepting any gifts, gratuity, favor, entertainment, loans or any other item of monetary value from any person, within or outside Town employment, whose interest may be affected by the employee's performance or nonperformance of his or her official duties. Acceptance of nominal gifts, such as food and refreshments in the ordinary course of business meetings or unsolicited advertising or promotion materials such as pens, note pads, calendars, etc...is permitted.
 - 2. Business Activities and Solicitations: No employee shall engage in any business other than his/her regular duties during work hours, with the exception of reciprocal notary services.
 - 3. Confidentiality: Many town employees have access to confidential information pertaining to persons or property in the town. Employees must not use this privileged information to their private advantage or to provide friends or acquaintances with private advantages. Each employee is charged with the

responsibility of releasing only information, which is allowed under Maine's Right to Know Law (1 M.R.S.A. §401-410).

VII. WORK WEEK/OVERTIME

- A. Work Week: The regular work week for payroll purposes begins on Sunday and ends Saturday midnight. The Town Administrator with the approval of the Board of Selectmen shall set the hours for the Town employees.

- B. Overtime: Employees not exempt from the Fair Labor Standards Act shall receive overtime pay after forty (40) hours worked per week. Work means that there were no holidays or vacation time in that week. All overtime shall be paid at the rate of one and one half times the employee's normal rate of pay. At the discretion of the Board of Selectmen, overtime may be compensated with Compensatory Time for hours worked beyond forty (40) in a work week. Such compensatory time shall be granted on a time and a half basis for hours worked beyond forty (40) in one week after any holiday and vacation time.

VIII. EARNED BENEFIT TIME

Eligibility:

Full-Time employees are eligible to accrue EBT upon employment. EBT may not be utilized during the first three months of eligibility except for holidays designated by the Town of Newcastle and employee sick leave documented by a medical note from the employee's health care provider. Deaths not covered under the Town of Newcastle bereavement policy are eligible for EBT, if EBT is available.

Accrual:

EBT is accrued based on the number of paid hours up to 40 hours per week (exclusive of overtime or other special payment). EBT is also accrued during leaves of absence with pay, but is not accrued during leaves of absence without pay. The EBT accrual rate increases with the employee's length of continuous service.

Year One – 112 Hours (2.1538 hours per week)

Years Two (2) through Ten (10) – 152 Hours (2.9231 hours per week)

Years Eleven (11) through Twenty (20) – 192 Hours (3.6923 hours per week)

Over Twenty (20) years – 232 Hours (4.4615 hours per week)

If continuous service is broken by separations from employment. Separations include voluntary resignations and changes to per diem status. If a separated full-time employee who previously met the eligibility period returns to full-time work within six (6) months, the employee will not have to repeat the three-month eligibility period and prior eligible service will count toward years of continuous service. EBT accrual upon re-hire shall be at the same accrual rate as in effect upon separation from employment. You will receive your EBT accrual schedule upon hire.

Approval:

The use of EBT must be approved by the Town Administrator or Board of Selectmen. Sufficient EBT must be available; there are no advances on EBT. Every reasonable effort will be made to grant EBT as requested. However, department staffing needs must be given priority. Requests for EBT are to be made to the, Town Administrator or Board of Selectmen as soon as possible and at least fourteen days prior to. Occasionally, personal emergencies or important events arise. In these circumstances, EBT is approved by the Town Administrator.

Maximum Accrual:

An employee may accrue up to a maximum of 400 hours of EBT. No time shall be accrued beyond the 400-hour maximum.

Managing Your EBT:

Accumulated EBT can provide some insurance against loss of income during an illness or other emergency. Employees are encouraged to retain an adequate amount of EBT to help protect against such a loss. It is each employee’s responsibility to manage their EBT properly, ensuring that EBT is available for the unforeseen illness/emergency, and at the same time, avoid exceeding the 400-hour maximum accrual. During each year of service, the Town of Newcastle encourages employees to take time off from the job for rest and relaxation.

Payment in Lieu of Time Off:

On an annual basis, the BOS may approve “EBT cash out.” If approved, an employee may cash out a portion of their EBT balance in 40 hour increments and must maintain a minimum of 100 hours of EBT. Town of Newcastle will announce the cash out program by March 1st of each year, notice of intent to sell EBT hours must be stated by March 30th and the cash out payments will be issued the last payday in July, unless otherwise stated in the employee notice. No EBT will be accrued on EBT cash out.

Usage:

Following three months of eligible employment, employees will be eligible for EBT and EBT must be used to cover all leaves of absence, (unless specifically stated otherwise); bringing the employee’s paid hours up to their regular scheduled hours. EBT cannot be used as paid time in excess of the employee’s regular scheduled work.

Holidays:

Paid holidays for full time employees:

- | | |
|------------------|------------------------|
| New Year’s Day | Thanksgiving Day |
| Memorial Day | Day after Thanksgiving |
| Independence Day | Christmas Day |
| Labor Day | |

IX. LEAVE/LEAVES OF ABSENCE

- A. Bereavement Leave: A full time employee may be excused from work for up to three (3) work days for the death of an immediate family member, as outlined below, and shall be paid his or her regular rate of pay for the scheduled work hours missed. Additional leave may be granted by the employer's supervisor, but will be unpaid.
- i. For purposes of this article only, immediate family is defined to mean spouse, parents, child, brothers, sisters, mother-in-law, father-in-law, grandfather, grandmother and grandchild.
- B. Leave without pay: An employee may be granted a leave of absence without pay at the discretion of the Town Administrator, with the approval of the Board of Selectmen.
- C. Family Medical Leave: An employee who has been employed for 12 consecutive months and has worked 1,250 hours during that period is entitled to a total of twelve (12) weeks of family medical leave in any twelve (12) month period. Leave shall be unpaid unless the employee has accumulated vacation or paid time off to apply to the leave request. The employee must give at least thirty (30) days notice of intended date upon which family medical leave will commence and terminate, unless prevented by medical emergency from giving such notice. The employee is entitled to be restored to the position held by the employee when the leave began or an equivalent position with equivalent pay and benefits.
- Leave may be consecutive, intermittent, or on reduced hourly schedule if the employee and the town agree or if medically necessary. This leave may be requested and must be granted for the birth of a child, adoption of a child, placement of a foster child, or for serious illness of the employee his or her spouse, child or parent, or domestic partner. Serious illness is defined to include an accident, illness, or condition posing imminent danger of death, transplant, limb amputation or other similarly severe procedure and/or mental or physical condition requiring constant in home care. The Town shall require medical certification of the need for leave, and written approval from the physician before returning to work.
- D. Leave for Victims of Domestic Violence: In accordance with Maine Law, the Town will grant you a reasonable and necessary amount of time off from work without pay if you are a victim of domestic violence, domestic assault, sexual assault or stalking, and you need time to:

- a. Prepare for or attend court proceedings,
- b. Receive medical treatment, or
- c. Obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking.

You must request the leave as soon as circumstances make it clear that time off is necessary. Approval of leave will be dependent upon (a) whether your absence will create an undue hardship for the Town, (b) whether you requested leave within a reasonable time, and (c) whether the requested leave is impractical, unreasonable or unnecessary given the facts made available to the Town at the time of your request.

If your leave is approved, you will be required to first use any accrued paid vacation and, if applicable, sick time before taking unpaid leave. Vacation and sick days do not accrue during your leave and holidays are not paid while you are on leave. However, you may be allowed to continue fringe benefits, such as health and dental insurance, at your own expense. You will not be discriminated against for taking or asking for leave.

X. EMPLOYEE HEALTH INSURANCE POLICY

Purpose: There is no requirement in Maine municipal law which requires a municipality to provide a medical insurance benefit. However, it is the intent of the Town of Newcastle to provide some level of health insurance coverage to its employees, providing they are working for the town on a full time basis. For purposes of this policy an employee whose job description is not designated as full time is not considered eligible to receive health insurance coverage paid for by the Town.

Policy: All health care plans are not created equal or stable. In the interest of providing reliable health care coverage the Town has selected for its carrier the Maine Municipal Employee's Health Trust (MMEHT). MMEHT keeps its plan on a solid footing in terms of strong financial reserves and stabilizes its rates through the use of surplus. This makes for a competitive system in the marketplace. Town employees who are eligible will be carried under the MMEHT's POS-C Comprehensive Plan or POS 200 Plan or may choose a plan outside MMEHT. The town will pay 80% of the value of MMEHT's POS-C Comprehensive Plan toward any other policy upon approval by the Board of Selectmen. The employee will pay the remaining 20% of the total premium. The town's health coverage shall be limited to the employee only. Any additional coverage desired by the employee shall be their financial responsibility.

Enactment: This policy will be effective upon a majority vote of the Board of Selectmen. Any change or amendment to the policy will also require a majority vote by the Board of Selectmen.

XI. EXPENSES/JURY DUTY

- A. Expenses: Employees who use their own motor vehicle in the performance of their duties shall be reimbursed at the prevailing state mileage rate. Other travel related expenses (tolls, parking, etc...) shall be reimbursed upon production of a receipt for said expenses, signed by the employee's immediate supervisor.

- B. Jury Duty: The Town Administrator must be notified as soon as an employee receives a summons for jury duty. Upon conclusion of jury service, a certificate from the Clerk of Court verifying the dates of service must be obtained. The Town shall pay an employee his or her normal pay. Remuneration received from the court must be turned over to the town; minus mileage reimbursement. The employee must report to work on days (or partial days) when service is not required by the court or when excused early.

XII. SAFETY

General

The Town considers the health and safety of its employees to be essential to its mission and vital to the efficient operations of the Town. To accomplish this, the Town is committed to providing a safe workplace for its employees and to complying with all state and federal safety regulations.

Safety is a team effort. Accidents, which are generally caused by unsafe acts, unsafe conditions, or a combination of both, can have a direct effect on employees, customers and Town property. We recognize that the success of any accident prevention effort depends on the cooperation and active support of you, your co-workers, Administrators and supervisors.

The federal Occupational Safety and Health Administration (OSHA) has established mandatory safety guidelines for business and appropriate safety procedures have been instituted throughout the Town. Working safely and complying with such safety procedures is a condition of employment – required by our policies and by law. You are responsible for cooperating in the prevention of injuries to yourself and/or others by observing the following safety rules:

- a. Know your duties and perform them in the safest possible manner, following proper work methods.
- b. Understand and adhere to safety policies and procedures; comply with all Town safety requirements of any safety equipment and/or clothing.
- c. Avoid accidents by being alert to, identifying and correcting unsafe conditions and practices; keep premises free of safety hazards.
- d. The Town has invested in equipment that is designed to enable you to do your work more efficiently and effectively; you are responsible for the proper care and use of this equipment to maintain it in good operating condition.
- e. If you are operating a vehicle – your own or the Town’s – as part of your job duties, you are expected to observe all traffic regulations and practice safe driving at all times.
- f. Immediately report to your supervisor all identified hazards, unsafe conditions and/or practices, defective or malfunctioning equipment, and any illness, accident or discomfort experienced in the workplace.

Work-Related Accidents and Injuries

Any accident, minor or major, could result in personal suffering and an inability to perform your work well. While every effort is made to ensure that your working environment is as safe as possible, your alertness, cooperation and awareness of accident hazards are key. If you become aware of a hazard, it is your duty to let your supervisor know as soon as possible. Please exercise personal caution and good judgment in all your work. Your well-being and that of fellow employees and customers is everyone's responsibility.

A work-related accident or injury is one that occurs during the hours that you are at work and is directly caused by activities that you perform as part of your job. If you are injured while performing work-related duties, or experience a work-related illness, *you must report it to your supervisor immediately*, even if the injury is a seemingly minor one. Failure to promptly report an injury could affect your ability to obtain workers' compensation benefits at a later date.

If medical attention is required, you will be sent to the Town's occupational health provider, and will be asked to provide information regarding the circumstances of your injury or illness, including its nature and severity. When you must lose time from work as a result of your injury, you are expected to keep your supervisor informed, on a regular basis, of your recovery status and return-to-work plans. The Town will make every reasonable effort to accommodate your return to work as quickly as possible.

Fire and Emergency Procedures

While our facilities are maintained and as secure as possible against fire hazards, there may be occasions when a fire or other emergency will require prompt action, including evacuation of the building. Please speak with your supervisor about emergency procedures for your work area.

Security

The Town has instituted measures to safeguard your personal security, as well as Town facilities, products and equipment. You are expected to follow all Town and department security procedures. Please speak with your supervisor regarding security procedures for your work area.

Use of Vehicles

Personal Vehicle: If you are required to use your personal vehicle for approved business purposes, you will receive a vehicle allowance equal to the current Town mileage reimbursement rate. This allowance is to compensate for the cost of gasoline, oil, depreciation and insurance and is reimbursed to you upon submission of the proper documentation. The mileage

reimbursement is paid only for miles actually driven on Town business. In addition, you may claim reimbursement for parking fees and tolls actually incurred while on Town business. Your supervisor must approve all reimbursement claims before they are submitted to the Town Treasurer.

In order to use your own vehicle for approved business purposes, you must have a valid unrestricted license from the state in which you operate and a current vehicle inspection sticker. You must also provide proof of insurance, minimum required limits is \$100,000/\$300,000 bodily injury and \$20,000 property damage.

Town-Owned Vehicles: You may have a Town vehicle assigned to you for regular, temporary or occasional use. If you are assigned a Town vehicle, you are completely responsible for its care, safe operation, and appropriate use. You are expected to obey all federal, state and local traffic laws and Town policies, and to demonstrate safe and courteous driving habits at all times. The following rules pertain to the use of Town-owned vehicles:

- a. Vehicles assigned for use during normal working hours only are to be garaged at Town designated facilities overnight. Vehicles assigned to you for your continuing use may, with supervisory permission, be stored at locations other than Town facilities. Administrators are responsible for the custody of vehicles assigned to their departments.
- b. Non-employees are permitted to ride in Town vehicles for business-related reasons or in emergency situations, but are not permitted to drive Town vehicles. At no time may a Town vehicle be used by anyone other than you or loaned to anyone, including your family members.
- c. Except as expressly authorized by management, Town vehicles – including cars, trucks and plows – are not to be borrowed, used for personal use, or used to transport non-employees in situations unrelated to Town business.
- d. If personal use of a Town vehicle is authorized, accurate records must be maintained regarding business-use mileage and personal-use mileage for tax reporting purposes. Personal use of a Town vehicle may be treated as a taxable benefit to you under IRS guidelines.
- e. You are expected to use good judgment and common sense at all times when using Town vehicles. This includes using fuel conservation techniques (i.e. shutting off engines when vehicles are left unattended), observing speed limits, and using car/cell phones in a safe manner (e.g., be aware of traffic around you and don't use phones in heavy traffic;

the best course of action is to pull out of traffic while using). It is required that seat belts be used in all Town-owned vehicles at all times, whether you are a driver or passenger.

- f. You are responsible for paying any fines associated with parking, speeding, or other traffic violation tickets that are issued while the vehicle is assigned to you. Because your driving record and accident history have a direct impact on insurance coverage costs paid by the Town, repeated traffic violations or motor vehicle accidents will result in loss of vehicle privileges and may be cause for disciplinary action. The Town may conduct driver license and/or driving record checks annually or if need arises.

XIII. POLITICAL ACTIVITY

While performing their normal work duties, employees shall not seek or accept nomination or election to any office in the Town government and shall not use their influence publicly in any way for or against any candidate for elective office or any current cause within the town government. This rule is not to be construed to prevent employees from becoming or continuing to be members of any political organization, from attending political meetings, from expressing their views on political matters outside of the work are, or from voting with complete freedom in any election.

Failure to abide by this rule shall result in disciplinary action.

XIV. HARASSMENT

Policy:

It is the policy of the Town that all our employees should be able to work in an environment free from all forms of harassment. Harassment, as defined by this policy, is prohibited. This policy refers not only to supervisor-subordinate actions, but also to actions between co-workers. Any complaints of harassment will be investigated promptly. There will be no intimidation, discrimination or retaliation against any employee who makes a report of harassment.

Sexual Harassment:

It is illegal for any employee to sexually harass another employee and for any supervisory employee to permit any act of sexual harassment in the workplace by anyone, whether or not an employee.

DEFINITION OF SEXUAL HARASSMENT UNDER STATE LAW

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.

DESCRIPTION OF SEXUAL HARASSMENT

The following type of conduct is considered to be sexual harassment and is not permitted:

- A. Physical assaults of a sexual nature such as:
 - 1) Rape, sexual battery, molestation or attempts to commit these assaults; and

- 2) Intentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body, or poling another employee's body.
- B. Unwanted sexual advances, propositions or other sexual comments, such as:
- 1) Sexually-oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience directed at or made in the presence of any employee who indicates or has indicated in any way that such conduct in his or her presence is unwelcome;
 - 2) Preferential treatment or promise of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward; and
 - 3) Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of that employee's job more difficult because of that employee's sex.
- C. Sexual or discriminatory displays or publications anywhere in the company by employees, such as:
- 1) Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic, or bringing into the work environment or possessing any such material to read, display or view at work.
 - 2) Reading or otherwise publicizing in the work environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic; and
 - 3) Displaying signs or other materials purporting to segregate an employee by sex in any area of the workplace (other than restrooms and similar semi-private lockers/changing rooms).

Other Types of Harassment:

Derogatory or vulgar comments regarding a person's sex, religion, age, ethnic origins, physical appearance, or the distribution of written or graphic material having such an effect, are prohibited.

Reporting of Harassment:

Any employee who believes he/she has been the subject of such harassment should report the alleged conduct to a supervisor or other appropriate Town official, the Department Head or other appropriate administrator. Any supervisor or employee who is found, after appropriate investigation, to have engaged in any harassment will be subject to discipline, up to and including discharge.

Training:

All employees must attend a Harassment/Sexual Harassment training course by an authorized instructor.

XV. DRUGS, ALCOHOL & SMOKING

- A. Smoking of cigarettes, cigars, pipes or other objects giving off smoke and including the use of smokeless tobacco products in or on any Town-owned building, vehicles, or other structure or property under the control of the Town, is prohibited. Smoking outside will be in designated areas only, a minimum of 20' from doors, windows, vents or openings to the building, per M.R.S.A. Title 22 § 1541-1545.

- B. Drugs and alcohol. It is the policy of the Town of Newcastle to prohibit the use of or for any employee to be under the influence of any illicit drugs or alcohol while performing any work associated with any Town government function of any sort. Use of illicit drugs or alcohol during the course of one's duties, or the impaired performance of one's duties by reason of having engaged in the use of illicit drugs or alcohol prior to commencing work shall result in disciplinary action.

XVI. RESIGNATION

All Employees resigning from Town employment will give a written two-week notice.

XVII. DISCIPLINARY ACTION

Introduction:

Whenever, in the supervisor's judgment, an employee's performance, attitude, work habits, or personal conduct at any time falls below an acceptable level, the supervisor will inform the employee promptly and specifically of such lapses and give counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe disciplinary action, up to and including immediate discharge, the action to be taken depends on the seriousness of the incident and of the employee's past performance and conduct. Supervisors/department heads shall report any disciplinary action taken to the Town Administrator within 48 hours of the incident which prompted the disciplinary action. This time limit excludes Saturdays, Sundays and holidays.

Appeal:

An employee who feels that s/he has been treated unfairly shall have access to the grievance procedure as outlined in these rules and regulations.

Alcohol and Drug Abuse:

- A. Policy: It is the policy of the Town to recognize alcohol and drug abuse as a treatable disease. However, it is not the intent of the Town to accept below standard performance nor to restrict supervisors in dealing with performance problems.
- B. Whenever appropriate, the Town shall refer employees to appropriate agencies and organizations to seek treatment. However, the possession, sale, or use of illegal drugs on the employer's premises is strictly prohibited and is grounds for immediate dismissal. The use of alcohol on premises is also prohibited, and is grounds for dismissal, except at Town sanctioned events (i.e., receptions, etc.)

Unacceptable Conduct:

Disciplinary action, up to and including immediate dismissal, may result from performance, attitude, work habits or personal conduct that falls below an acceptable level. Unacceptable conduct includes, but is not limited to, the following:

- A. Insubordination: refusal to comply with the proper order of an authorized supervisor.
- B. Theft or destruction: stealing, misappropriation of Town funds; or carelessly or willfully causing destruction of Town property.
- C. Intoxication or Disgraceful Conduct: conduct under the influence of intoxicants while on duty whenever behavior threatens order, safety, health, or public respect for the Town service and when such conduct is solely the fault of the employee.
- D. Discourtesy: discourtesy to the public, supervisors or co-workers while on the job.
- E. Poor Attendance: habitual tardiness, excessive absence, abuse of sick leave, or absence without authorized leave.
- F. Acceptance of monetary fees: acceptance of money or other valuable consideration given with the intent of influencing the employee in the performance of his/her official duties.
- G. Improper use of authority: use of official position or authority for personal profit or advantage.
- H. Falsification of Records: including, but not limited to falsification of application papers.
- I. Poor Job Performance: evidence of continued unsound judgment in performing official duties or failure to comply with the adopted policies and procedures of the Town.
- J. Sale of Goods or Services to the Town: Any attempt to sell materials, goods, services, etc., to the Town in which a Town employee may receive financial gain or remuneration.
- K. Criminal Activity: conviction for any criminal activity may be cause for termination of employment.

Reprimands, Suspensions, Discharge:

Disciplinary action may include, but is not limited to, some or all of the following. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating any disciplinary action. In general, three warnings will be given before suspension or termination. In some instances, however, a specific incident in and of itself may justify severe disciplinary

action, up to and including immediate discharge, the action to be taken depends on the seriousness of the incident and of the employee's past performance and conduct.

- A. Oral Reprimand is defined as a verbal notice to an employee that his or her behavior or performance must be improved or corrected. An oral reprimand may be given by the immediate supervisor and should define the improvement or corrective action required. The supervisor should inform the employee that failure to comply with the oral warning will result in more serious action. Supervisors shall record the date and the subject of the oral reprimand and this record shall be placed in the employee's personnel file.
- B. Written Reprimand is defined as a written notice to an employee that his or her performance or behavior must be improved or corrected. Such notice may be given by an immediate supervisor and shall contain a statement of the cause for the action, improvement or corrective action required of the employee, time frames for such action, and possible results of the employee's failure to comply. Written reprimands shall be placed in the employee's personnel file. An employee receiving a written reprimand may respond to the action and a copy of the response shall be attached to the reprimand.
- C. Suspension is defined as the temporary removal of an employee from duty without pay. An employee on suspension will not receive holiday pay nor accumulate sick time and personal time. Suspension should be used when all other means have been tried without success and it is believed that suspension will bring about the required improvement in the employee's behavior or performance, or when the cause is sufficiently serious to warrant such action. The decision to suspend an employee shall be the responsibility of the Department Head and the Town Administrator.
- D. Discharge is defined as the removal of an employee from Town service. Discharge will be used when all other means of improving the employee's behavior have failed, or when the nature of the misconduct warrants this action. The decision to discharge an employee shall be the responsibility of the Department Head, Town Administrator and Board of Selectmen.

XVIII. GRIEVANCE PROCEDURE

Policy:

A grievance is a dispute between any employee and the Town concerning the interpretation or application of the terms of employment. Excluded from consideration as a grievance are those matters pertaining to management's judgments of qualifications and/or performance relating to: hiring or promotion of personnel, and compensation adjustments, except that regular employees may appeal performance evaluations.

Procedures: All Personnel

1. Any employee who perceives a grievance as defined, shall, within ten (10) working days submit such grievance in writing to his/her supervisor, who shall attempt to resolve the matter within five (5) working days thereafter. If the employee does not have a supervisor or if the grievance involves the conduct of the employee's supervisor, the grievance shall be submitted directly to his/her Department Head.
2. In the event that the matter is not thereby resolved, the employee may within five (5) working days following the supervisor's decision, or failure to act, bring the grievance in writing to the attention of the Department Head. The Department Head shall have five (5) working days to consider the matter and render a decision. That decision shall be in writing. If the grievance involves the conduct of the employee's Department Head, the grievance shall be submitted directly to the Town Administrator.
3. If the matter is still not resolved to the satisfaction of the employee, the employee may, within five (5) working days, bring the matter to the attention of the Town Administrator for his consideration by submitting a written statement setting forth the specific nature and details of the grievance. The Town Administrator shall schedule a date to hear the grievance of the employee which shall be not less than five (5) nor more than ten (10) working days from receipt of the written statement. The Town Administrator shall have five (5) working days thereafter in which to consider the matter, and render a decision in writing which may be appealed to the Board of Selectmen within five (5) working days.
4. In the event that the Board of Selectmen, within thirty (30) days from and including the date on which the grievance, the unresolved issue shall be submitted to Arbitration, as provided by the Municipal Public Employees Labor Relations Law. Expenses of Grievance Procedures and Arbitration, if any, shall be divided equally between the Town and the employee. Each party shall be responsible for their own legal fees.

XIX. BOARD OF SELECTMEN

The Board of Selectmen shall deal with administrative services solely through the Town Administrator and will not give orders to any subordinate of the Town Administrator either publicly or privately.

This does not prevent selectmen from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any official or department, or any matter relating to the welfare of the Town.

XX. CONFLICT OF INTEREST

Section 1. Statement of Policy

It is the Policy of the Town of Newcastle that the proper operation of democratic government requires that public officials be independent, impartial and responsible to the citizens, that public office not be used for personal gain, and that the public have confidence in the integrity of its municipal government.

The purpose and intent of this article is to promote the objective of protecting the integrity of the government of the Town of Newcastle against actual or reasonably perceived conflicts of interest, either financial or because of a personal relationship, without creating unnecessary barriers to Public Service.

Section 2. Definitions

A. Personal Relationship

The term “personal relationship” means any family, affectional or social relationship that is characterized by one or more of the following:

1. Persons who are husband and wife, or parent and child
2. Persons who share a physical intimacy with each other
3. Persons who acknowledge an ongoing romantic relationship with each other
4. Persons who live together in the same residence
5. Persons who intermingle their financial assets without an accounting of separate ownership interests
6. Financial involvement

B. Financial Involvement

The term financial involvement means any existing (or current efforts toward achieving) ownership or investment interest, contract right, significant customer relationship, or employment relationship, of or with a public officials or a person with whom the public official has a personal relationship.

Section 3. Standard of Conduct

A public official shall refrain from participation as an official in a matter when there is an actual, potential, or reasonably perceived conflict of interest arising from a personal relationship or

financial involvement that would cause a reasonable person to believe that the public official cannot act in his or her official capacity without self-interest.

Section 4. Applicability of Conflict of Interest Guidelines

When a Selectman, Board member, Town Administrator or other Town official or employee has a doubt as to the applicability of a provision of this guideline to a particular situation, s/he should apply to the Board of Selectmen for an advisory opinion and be guided by that opinion.

The Selectman, Board member, Town Administrator, or other official or employee shall have the opportunity to present his/her interpretation of the facts at issue and of the applicable provision(s) of the guideline before such advisory decision is made.

Section 5. Selectmen

No member of the Board of Selectmen, or a firm in which he or she exercises control during his or her term of office, shall be allowed to contract with the town to supply any goods or services unless they are procured by a competitive process in which the selectmen with a conflict of interest has not participated as an official.

It shall be the responsibility of the selectmen to assure the public that a selectman having a direct or indirect relationship that could be construed as a conflict of interest has recused him or herself from all participation concerning the service to be rendered.

The action shall be recorded in the minutes of the Board of Selectmen.

Should any member of the Board of Selectmen seek the opportunity to acquire contractual work for the town, he or she shall give notice of such interest to the remaining selectmen. This notice shall be placed on the agenda of a regular meeting of the Board of Selectmen before bids are advertised for the contractual service. The remaining selectmen shall determine the appropriateness of the proposed participation by a member of the Board of Selectmen. The action shall be recorded in the official minutes of the meeting.

Section 6. Other Officials and Employees

Any town official or town employee, other than members of the Board of Selectmen, who has a personal relationship with anyone in any contractual relationship with the Town or who has a financial interest, directly or indirectly, in any contractual relationship with the town, or in the sale to the town of any land, material, supplies, or services, or who is contractor supplying the

town with any services or materials shall make know his or her specific interests to the Board of Selectmen in writing before proceeding to deliver the services.

Further, the town official or employee shall refrain from voting upon or otherwise participating in any decisions regarding the sale of any contractual services to the town.

An official or employee of the town shall be deemed to have direct or indirect financial interest under this section when that person has any financial interest in any business retained by the Town to perform a service, or has a personal relationship with an officer, director, partner, associate, employee or stockholder for a private corporation business, or other economic entity to which this section relates.

Section 7. Outside Employment

Full-time employment with the Town is considered an individual's primary employment. An employee may not engage in additional employment which in any manner interferes with the proper and effective performance of the duties of his/her position or results in a conflict of interest. Notification of all outside employment shall be provided to the Department Head and to the Town Administrator.

Section 8. Use of Town Property

Town-owned vehicles, materials, facilities, or equipment, including shops and tools, shall not be used by Town employees or their families for any personal or private use without the express consent of the Town Administrator and the employee's Department Head. All facilities and equipment are provided by the public and should be used only for public uses.

Section 9. Gifts and Favors

No Board member or other official or employee shall accept any valuable gifts that total more than \$200.00 per fiscal year, whether in the form of service, loan, thing, or promise, from any person, firm, or corporation which, to his/her knowledge is interested directly or indirectly in any manner whatsoever in business dealing with the Town. Nor shall any such official or employee accept any single gift greater than \$100.00 or any other favor or thing of value that may tend to influence him/her in the discharge of his/her duties. Police officers are governed by the law enforcement code of ethics and may not accept any gifts at all.

Section 10. Employment of Family Members

The spouses and children of the Town Administrator or a member of the Board of Selectmen may not be employed by the Town, with the exception of employment by the School

Department. The spouse or child of any Department Head may not be gainfully employed in his or her department.

Section 11. Representing Private Interests Before Town Agencies or Courts

No Board member or other official or employee whose salary is paid in whole or in part by the Town shall appear in behalf of private interests before any agency of the Town. S/he shall not represent private interests in any action or proceeding against the interests of the Town in any litigation to which the Town is a party.

A Board member may appear before Town agencies on behalf of constituents in the course of his/her duties as representative of the electorate or in the performance of public or civil obligations. However, no Board member or other official or employee shall accept a retainer or compensation that is contingent upon a specific action by a Town agency.

Nothing in this guideline shall deny any Board member or other official or employee from appearing before any agency of the Town in his/her own behalf, provided the records of the proceedings clearly state the fact that s/he is appearing in his/her own behalf, and provided further that the nature of his/her interest is clearly set forth in the records.

Section 12. Disclosure of Interest in Legislation

A Board member who has a financial or other private interest in any legislation shall disclose on the records of the Board of Selectmen or other appropriate authority the nature and extent of such interest.

Any other official or employee who has a financial or other private interest, and who participates in discussion with or gives an official opinion to the Board, shall disclose on the records of the Board of Selectmen or other appropriate authority the nature and extent of such interest.

Section 13. Violations

Any selectman, town official or employee who conceals such financial or personal interest or otherwise violates the requirements of this policy, either intentionally or otherwise, may be subject to recall or removal from office.

XXI. EMAIL/INTERNET/CELL PHONES

1. “Electronic email, Internet and telecommunication access are resources made available to Town employees to communicate with each other, other governmental entities, companies and individuals for the benefit of the Town”.
2. “The system is Town property and intended for Town business. The system is not to be used for employee gain or to support or to advocate for non-Town related business or purposes.”
3. Acceptable and Unacceptable Activities
 - a. The use of Town email and internet will not be used to harass another person, business or entity of any kind, any illegal activity, personal gain, or to download personal materials. This may or may not be an exhaustive list of unacceptable practices.
 - b. All employees with email or internet access shall not intentionally seek information and will not use Town resources to obtain anything of a personal nature. Employees need to respect the legal protection of programs and data protected by copyright and license. State and Federal Law prohibits unauthorized use of disclosure of data. As property of the Town the computer systems within it should be protected from harm at all times. Unauthorized downloads or the altering of existing systems including hardware and or software is prohibited without written authorization. This is by no means a comprehensive list of accepted or unaccepted uses and if a user has a question they should ask. The occasional personal use of email to communicate with a friend in a brief non-offensive manner will be permitted on lunch hours or breaks). Also, the occasional order placed over the internet on the employee’s personal credit card is allowed on lunch hour or break. The Town understands not everyone has a system at home and seeks to be fair and accommodating to its employee’s.
 - c. The Town has the right and may from time to time monitor sites visited and other computer activity by individual or all users of the system.
 - d. Personal cell phones must be turned off during office hours, unless in use in the conference room during break-time.
4. Any violation of this section could result in disciplinary action and some violations will result in disciplinary action up to and including dismissal.

XXII. DISABILITY ACCOMODATION

The Town is committed to complying fully with the Americans with Disabilities Act (ADA) and ensuring equal opportunity in employment of qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis.

Hiring procedures have been reviewed and provide persons with disabilities meaningful employment opportunities. Pre-employment inquiries are mad only regarding an applicant's ability to perform the essential duties of the position.

Reasonable accommodation is available to all disabled employees, where their disability affects the performance of job functions. All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.

Qualified individual with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as in job assignments, classification, organizational structures, position descriptions, lines of progression and seniority lists. Leave of all types will be available to all employees on an equal basis.

The Town will not discriminate against any qualified employees or applicants because they are related to or associated with a person with a disability. The Town adheres to any state or local law that provides individuals with disabilities greater protection than the ADA. Furthermore, the Town is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and all other applicable Federal, State and Local laws.