



**TOWN OF GRAY**  
**GRAY TOWN COUNCIL WORKSHOP**  
**AGENDA • NOVEMBER 16, 2023**

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**Gray Town  
Council Workshop**

**Town Council Chambers**  
**24 Main Street, Gray, ME 04039**  
**<https://us06web.zoom.us/j/833-9438-0277>**  
**Phone 646-558-8656 / Meeting ID: 833-9438-0277**

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**5:30 PM**

**CALL to ORDER**

Roll Call

**WORKSHOP 5:30 PM**

- Discuss potential revisions to the Personnel Policy

*\* The Town of Gray is an equal opportunity employer and complies with all applicable equal access to public accommodations law. If you are planning to attend a Town Council or Town committee or board meeting and need assistance with a physical disability, please contact the Town Manager's office at least 48 hours in advance of the meeting to have the Town assist you. 657-3339. TTY 657-3931.*



# TOWN OF GRAY

Henry Pennell Municipal Complex  
 24 Main St, Gray Maine 04039  
 www.graymaine.org

## ADMINISTRATION

Jonathan Hartt, HR Director  
 jhartt@graymaine.org  
 (207) 657-3339 x102

### MEMORANDUM

Date: November 13, 2023  
 To: Gray Town Council  
 From: Jonathan Hartt, Human Resources  
 Re: Personnel Policy Draft

Councilors, I write to propose amendments to, as well as a reorganization of, the Town’s Personnel Policy. A recent review of this guiding document, conducted in collaboration with the Interim Town Manager and the Town’s attorney, has identified areas where the Policy would benefit from updates and refinements. Please consider the list below with special attention to the requests in red text.

#### Key Areas of Amendment:

POLICY	SECTION	SUGGESTED CHANGE
Equal Employment Opportunity	2 B - General Principles	Amended to match EEOC definition
Americans with Disabilities Act	2 C - General Principles	NEW - Recommended by Town attorney
Diversity, Equity, and Inclusion	2 C - General Principles	Moved and reduced for clarity
Definitions	2 E - General Principles	Amended to reflect current/best practice. <b>Town Council should define “Years of Service”</b>
Types of Employment	3 C - Recruitment and Hiring	Added “Part Time Excluding Benefits” and “On Call” to update employment types
Work Schedule	5 A - Hours of Work	Added language to clarify essential requirements
Meal Break	5 B - Hours of Work	NEW - <b>Town Council should decide length of Meal Break</b>
Attendance and Lateness	5 C - Hours of Work	Amended to reflect current/best practice
Illness	5 D - Hours of Work	NEW - reflects wellness focus
Pay Dates	6 A - Compensation	Updated to reflect current process
Pay Ranges	6 B - Compensation	Updated to reflect current/best practice
Call-Back Pay	6 H - Compensation	Name changed to align with FLSA term. Edits further clarify this compensation.
Retirement	8 E - Benefits	Added MainePERS
EAP	8 F - Benefits	NEW - reflects current benefit offering
Remote Work	8 G - Remote Work	Reduced from 3 pages to simplify request process
Workplace Violence	10 B - Conduct	NEW - recommended for employee safety, emergency preparedness, and risk mitigation
Electronic Communications	10 H - Conduct	Moved from Appendix, reduced for clarity

Resignation or Retirement	12 A - Termination and Rehiring	Added language and subsections to identify forms of termination
Reduction in Force	12 B - Termination and Rehiring	NEW
Death	12 C - Termination and Rehiring	NEW
Dismissal	12 D - Termination and Rehiring	NEW
Rehiring	12 E - Termination and Rehiring	NEW
Grounds for Discipline	13 A - Disciplinary Action	Added policy rationale governing action
Types of Action	13 B - Disciplinary Action	Added explanation of types of action
Paid Administrative Leave	13 C - Disciplinary Action	NEW - Recommended by Town attorney
Documentation	13 D - Disciplinary Action	Added language to clarify procedure
Appeals	13 E - Disciplinary Action	NEW - Recommended by Town attorney
Grievance Procedure	14 - Grievance Procedure	Replaced language to clarify. No substantial difference from current procedure.

**Reorganization of the Policy Document:**

In addition to new and amended language, we are proposing a reorganization of the Personnel Policy to improve the document’s clarity and ease of reference. This includes a restructuring/renaming of sections and the addition of multiple subsections.

**Next Steps:**

For your reference, please attached find two Personnel Policy documents:

- 1) DRAFT Document with Additions: This document incorporates proposed sections and language with each addition appearing in red text. If approved, this document would replace the current document.
- 2) ORIGINAL Document with Excisions: This file illustrates what content was removed by displaying the original text with excisions marked by strikethrough text.

The Town Manager and I look forward to presenting this latest Personnel Policy draft for your thoughtful consideration and guidance. Thank you, and please let me know if you have any questions.

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# PERSONNEL POLICY

## Town of Gray

Adopted: February 2, 2010

Amended: February 21, 2012

Amended: February 18, 2020

Amended: June 7, 2022

Amended: December 20, 2022

Amended: May 16, 2023

Amended: \_\_\_\_\_

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Be it hereby resolved by the Town Council of Gray, Maine:

**Section 1 – Introduction**

The Town of Gray (hereafter “Town”) is committed to providing a fair and equitable system of personnel administration. By supporting our employees, we can ensure that they are able to provide the highest quality services to our residents.

The Personnel Policy that follows is designed to facilitate the efficient administration of Town business while promoting and maintaining equal employment conditions for all Town employees. Positions have been classified, where necessary, to clarify policies which apply strictly to employees with similar duties, authority, compensation, or responsibilities. This policy is adaptive in nature and may be amended to meet the Town’s future needs. This policy shall be applicable to all employees as defined within, **unless otherwise provided in a separate agreement**, and is not a contract of employment.

**Section 2 – General Principles**

**A. Administration**

As the Town Council-appointed administrative head of the Town, the Town Manager is the Administrator of the Personnel Policy. It is their duty to:

- 1) Encourage and exercise leadership in the development of sound personnel practices among the departments of the Town;
- 2) Advise the Gray Town Council regarding manpower needs and utilization;
- 3) Foster and develop programs for the improvement of employee effectiveness including training, safety, health, counseling and courtesy when dealing with the public and respectfulness of municipal property;
- 4) Establish and maintain records of all Town employees in the public service, setting forth as to each employee: classification, title, salary or status, sick time, vacation time and any other relevant data;
- 5) Ensure that at least one bulletin board shall be set up within easy access to each employee for the purpose of required Department of Labor posters, public notices,

departmental regulations, etc.; and

- 6) Apply and perform any act, which may be necessary or desirable to carry out the purposes and provisions of the Personnel Policy.

The Town Manager designates the Human Resources Director to assist in the duties outlined above. The Human Resources Director should be considered a first point of contact for employees and external parties on personnel-related matters.

## **B. Equal Employment Opportunity**

The Town of Gray is an Equal Opportunity employer. The Town recruits, selects, employs, and promotes employees based on merit and without discrimination as to race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability, or genetic information.

The Town complies fully with all state and federal employment laws, including, but not limited to, the Americans with Disabilities Act (ADA), the Americans with Disabilities Amendments Act (ADAA), the Pregnant Workers Fairness Act (PWFA), and the Maine Human Rights Act. Employees who believe they have been subjected to any kind of discrimination should seek assistance from a supervisor, Human Resources, or the Town Manager without fear of retaliation.

## **C. Americans with Disabilities Act**

In accordance with the Americans with Disabilities Act (ADA), the Town provides reasonable accommodations to qualified individuals with disabilities. Requests for reasonable accommodation under the ADA or other laws should be submitted to the Director of Human Resources. The Town will engage in the interactive process with employees in order to review and provide requested accommodations when it is possible to do so, unless doing so would pose an undue hardship to the Town.

## **D. Diversity, Equity, and Inclusion**

The Town is committed to maintaining a safe and productive workplace for all employees, job applicants, and contractors. We embrace and encourage celebration of characteristics that make each of our employees unique. All representatives of the Town of Gray have a responsibility to always treat others with dignity and respect.

Town employees are expected to exhibit conduct that reflects inclusion during work, at work functions on or off the work site, in their professional correspondence and social media interactions, and at all other Town-sponsored and participative events. Any employee found to have exhibited any inappropriate conduct or behavior against others may be subject to disciplinary action.

## **E. Definitions**

Please reference these terms:

- 1) Appointing Authority: The Town Manager or the Town Council.
- 2) Employee: Denotes any person hired to a position by the Town Manager.

- 3) Volunteer: Denotes any person who donates his or her time without expectation of compensation, excluding board and committee members and members of the Town Council as this policy document does not cover these groups.
- 4) Good Standing: Employees who are not the subject of disciplinary action by the Town are considered in good standing.
- 5) Immediate Family: Includes parents, spouse/domestic partner, brother, sister, children (including step-children), grandparents, mother-in-law, father-in-law, sister-in-law, brother-in-law.
- 6) Hire Date: The date on which an employee actually commences work for the Town of Gray. The “hire date” will always remain as this date regardless if there is a change in position classification.
- 7) Anniversary Date: This date is used to determine an employee’s seniority and benefit eligibility date as applicable. For example, this may include the hire date or date of change from a per diem position to a full-time benefits eligible position.
- 8) Years of Service: Total number of years of continuous service as an active regular full-time or part-time employee with a year being a 12-month period during which the employee completes at least 1,000 hours of service.

### **Section 3 – Recruitment and Hiring**

#### **A. Job Opportunities**

The recruitment and selection process for Town vacancies may vary with the position, but as a standard practice all positions not filled by internal promotion will be publicly advertised through multiple mediums, such as websites, publications, job boards, and social media platforms. The Town seeks to identify and attract the most qualified employees possible based on relative knowledge, skills, abilities, experience, and overall performance during the selection process, and/or during prior service to the Town.

All qualified applicants will be considered, and applications should state the position the applicant is applying for. Any misrepresentations, falsifications or material omissions may result in an applicant’s exclusion, or, if the person has been hired, termination. Applications for individuals not hired will be retained in a secure file for the minimum period required by law, after which records will be destroyed in a confidential manner.

Employment offers will be in writing and may be conditioned on the applicant passing a background check, employment verification, pre-employment physical exam by a medical provider of the Town’s choice, a drug and alcohol test, motor vehicle and license record check, or any other lawful pre-employment screenings that are determined by state law to be appropriate for the position. The Town will check references and needed licensure for the applicant receiving an employment offer.

Following an employment offer, the Town will initiate at least a criminal background check for the prospective employee, contractor, or volunteer to ensure the welfare and safety of the citizens in the Town of Gray.

## B. Classifications

The Town has established four (4) employment classifications.

1. Group I: All **regular** full-time, salaried employees.
2. Group II: All **regular** full-time, hourly employees.
3. Group III: Regular part-time employees **working from 20-34 hours per week**.
4. Group IV: All **other employees, including those working temporary, per-diem, or on-call positions**. These employees are paid for hours worked and are not eligible for benefits other than legally mandated benefits (e.g., State Workers' Compensation and Unemployment Compensation Insurance Laws).

The Town Manager **or their designee** shall develop and recommend job descriptions specifying title, classification, typical duties, and responsibilities. Each position is assigned a salary or wage range in accordance with the **approved budget**. The Town Council must review and approve job descriptions and proposed classification changes before they can become effective.

## C. Types of Employment

### A. Regular Employment

1. Full Time: Employees who are regularly scheduled to work the Town's full-time schedule are, generally, eligible for the Town's benefit package, subject to the terms, conditions and limitations of each benefit program. For the purposes of determining benefits eligibility, a full-time schedule means a minimum of thirty-five (35) hours per week, based on a calendar year.
2. Part Time: Employees who are regularly scheduled to work less than a full-time schedule, but no less than twenty (20) hours per week (**or, alternatively, 1,000 hours per year**). These employees receive all legally mandated benefits and are eligible for the Town's benefit package at full cost to the employee subject to the terms, conditions, and limitations of each benefit program. If hours worked during a pay period drop under 20 hours per week, no vacation or sick time will be accrued for that pay period.
3. Part Time Excluding Benefits: **Those who are employed on a regularly scheduled basis of less than twenty (20) hours per week. If an employee in this category completes at least 1,000 hours per year, they shall be reclassified as a Part Time (Group III) employee.**

### B. Non-Regular Employment

1. Temporary: Employees who may or may not work a specified number of hours per week but who are employed on a short-term basis at the discretion of the Town, usually for a specified term or project or are employed as part of seasonal operations. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary employees receive legally mandated benefits but are ineligible for the Town's benefit package.
2. Per Diem: Employees who **work on an intermittent or as-needed basis and** accept additional compensation in lieu of participation in all but legally mandated benefits. The Town offers this category in limited classifications and to a limited

number of employees, such as Firefighters/EMTs. Service in this category cannot be credited in any way toward any benefit program, even if the employee is later assigned to a benefit-eligible classification.

3. **On Call:** Call members do not have a regular schedule but work only as available and as needed when called into service. The Town offers this category only to fully trained Firefighters/EMTs who live in Gray. Call members earn minimum wage and are ineligible for participation in all but legally mandated benefits.

#### **D. Probationary Period**

All new or rehired employees shall work on a probationary basis for the first six months from their date of hire or a time as established in writing by the Town Manager. Any significant absence will automatically extend a probationary period by the length of the absence. **During this period, the employee must exhibit fitness for the position** and serves in an at-will capacity; the Town may end the employment relationship with or without cause or advance notice. **During this period, the employee has no right of disciplinary appeal or grievance procedures.** Probationary basis shall be consistent with regulations as established by the Fair Labor Standards Act (FLSA).

During the initial probationary period, new employees are eligible for legally-mandated benefits. New employees shall not be eligible for health care benefits until the first day of the month following the first thirty (30) days of employment after their **anniversary** date. New employees shall be eligible for other benefit programs at full cost to the employee. A list of Town-offered optional benefits is available in the Appendix.

An employee who is promoted or transferred within the Town may be required to complete a secondary probationary period with each reassignment to a new position. If this probationary period is not satisfactorily completed, the employee may be dismissed or the employee may be allowed to return to their former position or to a comparable position for which the employee is qualified, depending on the availability of such positions and the Town's needs.

### **Section 4 – Personnel Actions**

#### **A. Position Changes**

When an individual position is changed by reorganization, creation of a new position, or a change in duties and responsibilities, or possible job classification changes are necessary, the Town Manager must recommend the necessary revisions to the Town Council for their approval.

#### **B. Promotions and Transfers**

**The Town believes in providing employees with opportunities for advancement and professional growth. Employees wishing to apply for, or recommend others for, a promotion or transfer must inform the Town Manager or designee in writing. Changes require the Town Manager's approval.**

Vacancies shall be filled by promotion whenever in the judgment of the Town Manager, it is in the best interests of the Town to do so. Any salary offered for a promotion will be determined primarily based on the employee's qualifications for the new position and internal equity within the department. Employees can choose to accept or decline **non-transfer** promotion offers without repercussions in their current position.

**Interdepartmental transfers (voluntary or involuntary) may be necessary depending on the Town's needs. Note also that this subsection does not govern reasonable accommodation requests pursuant to the ADA. For more information concerning reasonable accommodation requests under the ADA, please refer to Section 2, Subsection 2-C.**

### **C. Temporary Vacancies**

When a regular employee is out for an extended period of time due to illness or injury, the Department Head must review the vacancy to determine if the operations can continue without the position being filled temporarily. The written analysis must include the cost benefits of using existing personnel, including any overtime incurred, versus the promotion or hiring to fill the vacancy. If it is determined that the position must be filled during this period the following shall apply:

1. **Promotions:** In those cases where a regular part-time employee is temporarily promoted to fill the full-time vacancy, the person promoted shall be entitled to receive, all benefits provided to that position as indicated in the position's job classification. Should the individual be returned to their regular part-time status, they shall be entitled to receive all benefits provided to that position as indicated in the position's job classification.
2. **Hire:** If a new person is hired temporarily to fill the full-time vacancy they shall only be entitled to the legally mandated benefits and holiday pay. If they are hired to the position as a full-time employee, then the time worked shall count towards their initial probationary period.

### **D. Performance Evaluation**

**Supervisors should provide frequent and periodic feedback to employees on job performance. Supervisors may utilize various tools as needed to assist employees in improving performance, such as assigning additional training and implementing performance improvement plans.**

Written Performance Evaluations **shall be completed at least annually at around the same time for all employees in Groups I-III.** Employee evaluations must be signed by the employee, Department Head, and Town Manager **or designee.** An employee may attach a written statement within ten (10) calendar days after any evaluation given to be included in their personnel file.

### **E. Personnel File**

The Town maintains a personnel file for each employee. Personnel files are confidential and are the property of the Town. Personnel files are kept in the Human Resources

office. A personnel file may include items such as hiring data, applications, resumes, reference letters, signed job descriptions, change of status forms, performance reviews, letters of recognition, corrective actions, and exit interview information. Other documents such as medical information and Workers' Compensation information are part of the employee personnel file but, because of the confidential nature of this information, are kept in a secure location separate from the personnel file.

Requests for this information are subject to the following requirements and procedures:

1. Employee Requests - Pursuant to 26 M.R.S.A § 631, an employee is permitted to review and copy the employee's personnel file upon written request. This right additionally applies to a former employee or an authorized representative of the employee or former employee. File review and copying must take place at the location where the personnel files are maintained, during normal office hours unless, at the Human Resource Director's discretion, a more convenient time and location for the employee is arranged. Employees are entitled to one free copy of their personnel file per calendar year upon written request.
2. Verification of Employment - Prospective employers, financial institutions, and residential property managers may request information on a former or current employee's work history and salary. All such requests should be referred to Human Resources. Responses to written requests for verification of employment will be made on the form provided only when the request is accompanied by a former or current employee's signed authorization to release such information. A written verification of employment form that has been completed by Human Resources will be returned directly to the requesting party. Telephone requests for verification of employment by prospective employers, financial institutions, and residential property managers will be limited to confirming information stated by the external party.

## **F. Vital Information**

To comply with federal and state regulations as well as for insurance and payroll purposes, employees must notify Human Resources, in writing, of any of the following changes:

1. Address and/or telephone number
2. Change in marital status
3. Change in dependent status
4. Legal change in name or citizenship status
5. Additional or relevant education or skills acquired since date of employment
6. Person to be notified in case of emergency
7. Change in military status or reserve requirements

## **Section 5 – Hours of Work**

### **A. Work Schedule**

The hours of work (starting times, quitting times, lunch times, and overtime) are established within each department subject to the Town Manager's approval. Due to the variety of services provided by the Town, it is necessary to have variations in work

schedules. Work schedules may be addressed in collective bargaining agreements (CBAs) for union employees, in which case the CBA governs. The hours of work may be changed by mutual agreement of the Department Head and the department employees, subject to Town Manager's written approval. When work schedules change, employees will be provided with as much advance notice as possible.

Department Heads are responsible for ensuring that all breaks and lunch periods are taken as required by law and for maintaining a true and accurate record of hours worked. Tracking methods may vary by department but may include electronic or paper format. An employee who knowingly submits hours they did not work and collects payment for them will be subject to disciplinary action, up to and including termination.

## **B. Meal Break**

Employees who work six or more hours in a workday are permitted a paid meal break not to exceed \_\_\_\_\_ minutes. Employees are to be completely relieved from duty during their meal break. Meal breaks (and any short rest breaks) are counted toward hours worked.

## **C. Attendance and Lateness**

Employees are expected to be reliable and punctual in reporting to work each day and to complete the full workday. Supervisors should monitor attendance and address unsatisfactory attendance and lateness in a timely and consistent manner. Absenteeism and repeated lateness may lead to disciplinary action, up to and including termination.

Absences include all time lost from the work schedule, whether avoidable or unavoidable, voluntary, or involuntary. In the event of an unplanned absence, it is the responsibility of employees to notify their Department Head directly of the absence, as early as possible, but no later than fifteen (15) minutes after their scheduled starting time. Department Head approval of absence requests should cause a minimum loss of service to the public and is subject to approval by the Town Manager. Department Head requests shall be submitted to the Town Manager or designee.

Employees who fail to report to work for three consecutive business days without notifying the Town of the absence will be considered as having voluntarily resigned as a result of job abandonment. If the employee is unable to contact the Town for any absence, the employee should ask a representative (such as a family member or friend) to do so on the employee's behalf. If the employee or a representative is unable to contact the Town due to extreme circumstances (such as a medical emergency or natural disaster that prohibits the employee or a representative from contacting the Town within three days), the employee or the employee's representative must contact the Town as soon as practicable to explain the situation. In extreme circumstances, the Town will consider the explanation and its timing before determining if the voluntary resignation will be upheld.

## **D. Illness**

Seasonal illnesses like coronavirus and the flu can negatively impact Town staffing and services. Town employees are encouraged to take preventive actions to protect themselves, coworkers, and residents. Employees should notify their supervisor and stay home if they are sick for any reason, but especially if they have symptoms of acute respiratory illness or signs of a fever. Employees may return to work after symptoms have improved and at least twenty-four (24) hours after their fever is gone without the use of fever-reducing medicines. For more information, refer to the U.S. Center for Disease Control and Prevention (CDC) website and to the Town's Infectious Disease policy.

## **E. Emergencies**

Emergencies requiring the closure of any of the Town's facilities will be announced on local radio and television stations as well as the Town website before 6:00 a.m., whenever possible. The Town Manager will contact Department Heads and activate the emergency phone tree to notify Town staff. Employees who are scheduled to work will be paid their normally scheduled hours during official closures. Emergency support staff including Facilities, Communications & Information, Public Safety, Public Works, and Recreation may be asked to work during official closures and will receive regular pay. For more information, refer to Town's Emergency (Extreme Weather) Closing Policy.

## **Section 6 – Compensation**

### **A. Pay Dates**

Employees are paid bi-weekly, with the pay week from Sunday through Saturday. If a payday falls on a regularly scheduled holiday, employees will receive pay on the last day of work before the regularly scheduled payday. Deductions are taken out each pay period, with insurance premiums deducted based on a four-payweek month. Premiums are paid a month in advance.

### **B. Pay Ranges**

The Town Manager will prepare pay ranges for all regular, non-union positions in accordance with the approved budget. Each pay range will reflect knowledge, skills, abilities, and responsibilities and shall be related to compensation for comparable positions in other public and private employment. Individual rate changes or re-assignments must be approved by the Town Manager and signed by the employee. The Town Manager will advise the Town Council as needed and submit an updated list of pay rates/ranges to the Town Council as part of the annual budget process.

### **C. Overtime**

Any time actually worked in excess of forty (40) hours in one work week shall be compensated by overtime pay at a rate of time and one-half, with the exception of employees in Group I. For the purposes of overtime calculation, holiday, and vacation time will be considered time actually worked, with the exception of floating holidays. Public Works and Maintenance employees will be paid overtime for time worked after their normal daily scheduled hours.

In accordance with FLSA, Fire Protection Employees are entitled to overtime if they work in excess of 212 hours in a consecutive twenty-eight (28) day period. Fire

Protection personnel include firefighters, paramedics, emergency medical technicians, rescue workers, ambulance personnel, or hazardous materials workers who:

1. are trained in fire suppression;
2. have the legal authority and responsibility to engage in fire suppression;
3. are employed by a fire department of a municipality, county, fire district, or State; and
4. are engaged in the prevention, control and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

#### **F. Firefighter Per-Call Stipend**

Firefighter/EMT per-call “time” is not included in actual time calculations and is not included in overtime calculations.

#### **G. Compensatory Time**

Compensatory time is paid time that is earned and accrued by an employee in lieu of immediate cash payment for working overtime hours. Accrual of compensatory time in hours will equal 1.5 times the overtime hours worked to correctly compensate the employee in regular hours.

*Example:* Overtime hours worked 2.5 hours = 2.5 hours multiplied by 1.5= 3.75 compensatory time hours.

All compensatory time accrued must be used within six months of their accrual date. At such a time, expired compensatory time will be paid out at the current rate of pay for the employee in the regular hours as calculated, as the regular hours have already been calculated at the required 1.5 rate.

Unless otherwise indicated in writing, each employee will be paid for the overtime hours worked during the normal payroll process. Each Department Head may determine whether the needs of their department are better served by allowing compensatory time to accrue for their employees in lieu of immediate cash payment for overtime hours worked. An employee may submit a written request to their Department Head for accrual of compensatory time in lieu of immediate cash payment for working overtime hours in advance of the hours worked, which will be subject to the Department Head’s advance approval.

#### **H. Call-Back Pay**

Call-back pay is extra compensation paid when a Group II employee is “called back” to perform extra work beyond regularly scheduled hours. Except as otherwise provided by law, any employee in Group II who is asked to come in to work during their normal off-duty hours (for example, a Public Works employee called in at night to drive a snowplow) shall receive time and one-half for each hour worked and shall be paid a minimum of three (3) hours at this rate for each such occasion.

## **I. Cost of Living Adjustment (COLA) / Merit Raises**

Any salary or wage adjustment based on the COLA will commence on July 1 of each respective year **in accordance with the approved municipal budget.**

Merit raises will be awarded as determined in writing by the Town Manager. Merit raises will be based on an employee's annual performance evaluation.

## **J. Travel Expenses**

### *1. Local Travel Expenses*

Employees required to drive personal vehicles for approved municipal purposes shall be reimbursed by the Town at the current federal mileage rate. Other approved expenses will also be reimbursed using a prorated Federal per-diem rate.

- a. Requests for local travel reimbursement must be approved by the employee's Department Head or the Town Manager, and must be accompanied by itemized receipts or submission of a travel expense form claiming prorated Federal per-diem reimbursement.
- b. Authorization for personal car use by employees for routine Town business will be at the discretion of the Town Manager. All employees must show proof of insurance and a valid driver's license.
- c. Authorization for personal car use by employees for a specific purpose and approved, in writing, in advance by the Town Manager.
- d. Reimbursement for authorized personal car use shall be at a rate as determined by the Town Council, which will be no less than the Federal mileage rate.
- e. All vehicle travel mileage outside of Gray shall be calculated from City Hall, 24 Main Street, Gray, ME, and mileage calculations shall be documented by the employee and submitted along with the reimbursement request, unless otherwise stipulated in advance by the Department Head or Town Manager.
- f. When two or more persons travel together on official authorized trips, costs shall be paid to one employee based on the total mileage involved.
- g. Employees are prohibited from purchasing alcohol or intoxicants using Town funds.
- h. Travel expense reimbursements related to grant funded activities shall comply with the reporting requirements of the funder.

### *2. Overnight Travel Expenses*

Employees are occasionally required to travel overnight and/or out of town for meetings, events, and professional training and certification purposes.

- a. Out-of-town travel expenses for employees must be authorized by the Town Manager or their designee, in writing, in advance of the use for which reimbursement is sought.
- b. Travel expenses will be reimbursed using either a submission of

itemized travel expense receipts or an employee may elect to receive the Federal per-diem rate for lodging and meal expenses.

- c. All vehicle travel mileage outside of Gray shall be calculated from City Hall, 24 Main Street, Gray, ME, unless otherwise stipulated in advance by the Department Head or Town Manager. Mileage calculations shall be documented by the employee and submitted along with the reimbursement request.
- d. It is understood that travel to conferences and training events may require lodging at rates that exceed the Federal per-diem rate. Employees should make the best effort to balance travel goals, personal safety, and the cost of lodging, and submit documentation of the lodging expense and the Federal per-diem rate with their request to the Town Manager to deviate from the per-diem rate.
- e. Employees electing to use the Federal per-diem meal expense rate may request an advance on their expense report to help cover travel costs.
- f. Employees shall pro-rate total daily meal expenses by one third (1/3) for meals that are covered by the registration for an event, and for meals occurring before or after partial travel days, unless they receive written permission to deviate from this policy.
- g. Employees are prohibited from purchasing alcohol or intoxicants using Town funds.
- h. Travel expense reimbursements related to grant funded activities shall comply with the reporting requirements of the funder.

### 3. *Managerial Authority*

Town Department Heads will include anticipated professional development and training travel expenses for department staff in their annual budget proposal, including the purpose of the travel, a list of those travelling, the duration of travel, the estimated cost, and the source of funding. The Town Manager will review annual budget proposals before submitting them to the Town Council.

The Town Manager will include their own anticipated professional development and training expenses in their annual administrative budget proposal, including the purpose of the travel, the duration of travel, the estimated cost, and the source of funding. The travel schedule will be reviewed by Town Council as part of the Town's annual budget development.

Other training sessions and opportunities to participate in professional conferences may arise during the year. Whenever possible, these costs shall be reviewed and approved in advance by the Town Council. Whenever timing for such travel does not allow for Council review, the Town Manager will notify the Town Council Chair in advance of the proposed travel. The Town Department Heads will submit any unanticipated travel costs and time for review under this process, provided the cost is within their department budget.

The Town Manager will submit their own unanticipated travel costs and time for review under this process, prior to travel.

Town staff may participate in community economic development activities that require use of Town funds for outreach events, meetings with prospective developers and business representatives, and campaigns to develop strategic business relationships.

- a. Expenses for community economic development campaigns must be authorized by the Town Council, in writing, in advance of the use for which reimbursement is sought.
- b. Community economic development travel and expenses should follow the Town's local and overnight travel policies.
- c. The Town Council has discretion in pre-approving use of Town funds for Community economic development purposes, including use for travel, lodging, meals, alcohol, and entertainment. Notwithstanding other provisions of this policy, the Town Council has the sole discretion to approve the reimbursement of expenses for economic development activities that may include the purchase of alcohol provided that the Council determines such activities were conducted in a responsible and safe manner that does not present a risk to the Town or its staff.

#### **K. Outside Compensation**

Any employees receiving payment for services, from non-Town sources, rendered during their normal workday and for which workday Town compensation was given, shall turn the entire amount of that compensation over to the Town Treasurer. This provision does not apply to activities outside the workday or during periods of vacation.

### **Section 7 – Employee Leave**

#### **A. Holidays**

Paid holidays for employees in Groups I, II, and III shall be as follows:

New Year's Day	Labor Day
Martin Luther King Jr. Day	Indigenous Peoples' Day
Presidents' Day	Veterans Day
Patriots' Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Juneteenth	Half Day before Christmas
Independence Day	Christmas Day

Employees in Groups I & II shall be compensated for their normal regularly scheduled working hours on the date of the holiday or its observance date (as described below (a)).

If a holiday falls on a date that is not a normal regularly scheduled working day for any employee in Groups I & II, the holiday shall be accrued as floating holiday time to be used within 6 months following the date of the accrual. If a holiday falls on a date that is not a normal regularly scheduled working day for any employee in Group III, the holiday shall be accrued as floating holiday time at a rate of one-half the average daily schedule for the employee, as worked for the previous three months, to be used within 6 months following the date of the accrual. Floating holiday time is not intended to be cumulative and is not included in overtime calculations.

The Department Head may request payment through payroll for employees for holiday hours which would normally be accrued as floating holiday(s) if the accrual of such floating holiday(s) will cause a loss of service to the public or potentially interfere with the productivity of a department. All such requests are subject to the written approval of the Town Manager. Floating holiday time paid instead of accrued is not included in overtime calculations.

- a. When a holiday falls on a Sunday, the following Monday shall be observed for all employees who are not regularly scheduled for Sunday. When a holiday falls on a Saturday, the preceding Friday shall be observed for all employees who are not regularly scheduled for Saturday.
- b. Because of the nature of the position, certain employees in Groups II & III may be required to work during a holiday. Should this occur, hourly paid employees will be paid time and a half for the hours worked on the holiday for all holidays except Thanksgiving and Christmas, for which they will be paid holiday pay plus two times their hourly rate for hours worked on the holidays.
- c. There is one standard exception to the holiday schedule. The Transfer Station will be closed on Easter Sunday and open on Patriots' Day without holiday compensation being paid for hours worked on Patriots' Day. Other exceptions to the holiday schedule may be necessary when considering the dates of the holiday (or their observance date) and the needs of the Town, or by a written request of the Department Head to the Town Manager. Any such exception(s) is/are subject to the approval of the Town Manager and must be determined with sufficient advance time to notify the public.

## **B. Vacation**

Employees in Groups I & II shall be entitled to two (2) weeks (80 hours) of vacation time each year. Employees with five years of service and Department Heads shall be entitled to three (3) weeks (120 hours) of vacation time each year. Employees with ten (10) years of service shall be entitled to four (4) weeks (160 hours) of paid vacation time each year. For accrual purposes, one (1) vacation day shall equal eight (8) work hours. Vacation time shall be accrued to each eligible employee during each pay period at the following rates:

- a. Under five years of service-3.08 hours;
- b. Five-ten years of service-4.62 hours;

- c. Ten years of service and after-6.16 hours.

Employees in Group III shall earn vacation time at an hourly rate of .0385 hours for every hour worked. This accrual rate is determined as follows:

$$3.08 \text{ hours per bi-weekly pay period} / 80 \text{ hours per pay period} = .0385 \text{ per hour}$$

For example, an employ working 20 hours per week (40 hours bi-weekly) would accrue 1.54 vacation hours per pay period ( $40 \times .0385 = 1.54$ ).

Whenever possible, vacation time must be requested and approved in advance by the employee's work manager / Department Head. The Town also recognizes employees' ability to use time consistent with Maine's Earned Paid Leave Law.

Vacation time is not intended to be cumulative. Vacation time will cease accruing at the employee's individual limit as determined by their years of service and their employment classification. Exceptions may be made at the written discretion of the Town Manager.

Exceptions may be made at the discretion of the Town Manager; provided however, with respect to the Town Manager's own annual time, they must, each year, advise the Town Council of the status of their annual time and, if applicable, request written permission from the Town Council to carry the same forward to the next year. Copies of the Town Manager's status report on their own annual time and the Town Councils written response shall be placed in the Town Manager's personnel file. Town employees and the Town Manager must take extended time within 180 days of the year earned.

### **C. Sick Time**

The Town has established a sick time benefit to ensure that employees have a financial resource during periods of illness. Employees are encouraged to use sick time during periods of actual illness and for medical appointments. Sick time may be utilized to care for an employee's immediate family as listed in the definitions portion of this Policy. The Town also recognizes employees' ability to use time consistent with Maine's Earned Paid Leave Law.

Employees in Groups I & II shall be entitled to one (1) day of sick time for each month while employed by the Town. For accrual purposes, one (1) sick day shall equal eight (8) work hours. They shall accrue 3.692 hours per bi-weekly pay period.

Employees in Group III shall earn sick time at an hourly rate of .04615 hours for every hour worked. This accrual rate is determined as follows:

$$3.692 \text{ hours per bi-weekly pay period} / 80 \text{ hours per pay period} = .04615 \text{ per hour}$$

For example, an employ working 20 hours per week (40 hours bi-weekly) would accrue 1.846 sick hours per pay period ( $40 \times .04615 = 1.846$ ).

For the purposes of sick accrual calculations, holiday and vacation time will be considered time actually worked. Sick time, personal time, discretionary time, FMLA and bereavement time will not be considered time actually worked. In the event an employee needs leave due to personal illness or to care for an immediate family member and the employee has exhausted all sick time accruals, the employee may be paid for up to 8 hours of leave by borrowing against future sick time accruals upon prior approval by the Town Manager. Following such an occurrence, the employee shall not be entitled to be paid through sick time accrual until his/her/their accruals have been restored to a positive balance. If an employee leaves employment with the Town for any reason, the Town shall deduct any negative balance of sick time accrual from the employee's accrued vacation payout or final paycheck. This provision is intended to address the use of paid sick leave only, and shall not impact the employee's rights under Maine or federal family medical leave laws.

The Town Manager may require a physician's certificate as a condition of an employee's utilization of sick time. Employees, who utilize three or more days of sick time consecutively, may be required to furnish a physician's certificate, explaining the employee's condition in direct relation to their ability to perform their job responsibilities in accordance with their job description. Persons drawing workers' compensation or absent on an FMLA absence will not accrue sick time.

All unauthorized use of sick time shall be considered as an unauthorized absence from work and as unpaid time. Unauthorized use of sick time shall be considered an action subject to discipline.

#### *Accrual Cap*

Accrual of sick time will not exceed 960 hours. Employees who have an excess of this cap as of January 1, 2023 will maintain their sick time hours until such time as the accrued hours may fall below 960 hours, at which time the cap will be in force.

#### *Payout for Accumulated Sick Time*

As of October 1, 2022, employees in Groups I & II, having achieved at least ten (10) years of service to the Town of Gray will be entitled upon separation to pay equal to one half of that employee's accumulated sick time, not to exceed three hundred and sixty (360) hours.

As of October 1, 2022, employees in Groups I & II having achieved at least five (5) years of service will be entitled upon separation to pay equal to one half of that employee's accumulated sick time, up to two hundred (200) hours.

As of October 1, 2022, payout is not available to employees in Groups I & II having achieved less than five (5) years of service.

An employee who is not in good standing upon separation from employment for any reason will receive no payout of accumulated sick time.

#### **D. Personal Time**

Any employee in Groups I or II will receive an annual personal time allocation of 16 hours. Personal time does not accrue year to year and is not subject to payout upon separation. Whenever possible, personal time must be requested and approved in advance by the employee's work manager / Department Head. The Town also recognizes employees' ability to use time consistent with Maine's Earned Paid Leave Law.

#### **E. Discretionary Time**

Additional time off with pay may be granted in writing to any employee by the Town Manager at their discretion. Such time must be used within one (1) calendar year and is not payable to the employee upon separation from employment.

#### **F. Bereavement Leave**

Special time with pay shall be granted to employees in Groups I-III for up to three (3) days for absence caused by the death of a member of the immediate family, as listed in the definitions portion of this Policy.

#### **G. Jury Duty**

A Town employee called for jury duty will receive his or her regular pay check. They are required to forward the jury summons and any payments received for their jury duty service to the Human Resources Department with the exception of mileage reimbursement. This procedure will compensate employees for any difference in pay. Employees excused from jury duty must report back to work if it is during their normal working hours.

#### **H. Family Medical Leave**

See Appendix for details.

#### **I. Earned Paid Leave**

See Appendix for details.

#### **J. Military Service Leave**

Employees in Groups I & II who are members of the organized military reserves and who are required to perform field service will be granted Military Service Leave in addition to the vacation leave, but not to exceed two (2) weeks in any calendar year. For any such periods of Military Service Leave, excluding weekend duty, the Town will pay the employee the balance between base pay and the employee's regular daily compensation; the total equaling their regular pay. The employee shall furnish the Human Resources Department with an official statement from military authorities indicating their rank, pay and allowances.

## **K. Unpaid Leave of Absence**

Other than FMLA, a leave of absence without compensation shall not exceed a length as determined in writing by the Town Manager and shall be based on the employee's past work performance.

A person on a leave of absence without pay shall not be entitled to holiday, sick or vacation pay. The Town Manager may permit holiday, sick and vacation pay on notice if extenuating circumstances exist and the leave of absence is less than thirty (30) days.

## **Section 8 – Benefits**

### **A. Social Security**

The Town participates, jointly, with employees in Social Security payments. This is a federally mandated benefit and is dependent on current Federal Government standard reimbursements.

### **B. Health Insurance**

Employees in Groups I, II and III are eligible to participate in a Town-sponsored group health insurance plan, which includes hospitalization and Major Medical. The Town will contribute toward coverage for employees in Groups I, II and III as determined annually by the Municipal Budget. When employment ceases, the Town will terminate payment of this benefit and COBRA will be offered as mandated by federal law. COBRA is to be administered by the insurance company if possible. New employees shall not be eligible for health care benefits until the first day of the month following the first thirty (30) days of employment after their **anniversary** date in their newly eligible status.

### **C. Life Insurance**

Employees in Groups I, II and III may be eligible for Life Insurance at a rate of 1 times their annual salary. The Town will pay toward coverage for employees in Groups I, II, and III if they are enrolled in the Town's group health insurance plan.

### **D. Town Offered Optional Benefits**

Employees in Groups I, II and III may be eligible for other optional benefits at full cost to the employee. A list of Town-offered optional benefits is available in the Appendix.

### **E. Retirement**

1. Retirement Plan: Employees in Groups I-III are eligible to participate in the Town-established retirement plan. New employees shall not be eligible for retirement benefits for the first sixty (60) days of employment.
2. Retirement Match: For employees in Groups I and II who elect to participate,

the Town will match the retirement contribution amount at 6% and will increase the contribution at 7.5% for 10 years of service, 8% for 15 years of service, 8.5% for 20 years of service and a maximum of 9% for 25 years of service and that the increase to employees retirement plan will not exceed the employee's contribution.

3. MainePERS (Firefighters Only): Full-time firefighters who have been employed by the Town for five years or less on September 1, 2024 are eligible to join the Maine Public Employees Retirement System (MainePERS) subject to terms and conditions of the Participating Local District Consolidated Plan. Note that this language is not intended to supersede any collective bargaining agreement provisions regarding the same.

## **F. Employee Assistance Program**

The Town's employee assistance program (EAP) is a resource available at no cost to Town employees. The EAP is a 24/7 confidential counseling and referral service that can help employees successfully deal with legal, financial, and work-life challenges. The Town encourages employees to use this service whenever they have such a need.

## **G. Remote Work**

The Town of Gray recognizes that, in some cases, telework arrangements can provide a mutually beneficial option for both the Town and its employees. However, not all jobs can be performed from off-site locations. **In fact, most positions in the Town provide in-person services such as operating equipment and directly assisting the public or other employees. These positions are unable to perform their key functions off-site and are therefore not suitable for remote work arrangements.**

The Town Manager will determine which positions are most suitable for remote work, depending on the Town's needs and the position's responsibilities. All remote work must receive prior approval **from the Town Manager, in consultation with relevant department heads.** To request a remote work arrangement, employees must submit their request in writing to their supervisor. This request must outline a proposed work schedule, specific deliverables, and procedures to ensure continuity of business. **A request will be declined if eligibility and/or other requirements outlined in this policy are not met.**

Positions working remotely will be provided with the number of hours they are expected to work on site and/or remotely. The workweek should approximately mirror normal business hours on Town premises. **Remote work can be requested by an employee as part of their regular schedule or on an as-needed basis. If part of a regular schedule, a Remote Work Agreement must be prepared by Human Resources and signed by the employee, Department Head, and Town Manager. Employees working remotely will work in an appropriate location where they are not distracted and have a stable and secure internet connection.** Employees will report their hours and activities to their supervisor.

As a general rule, the Town of Gray will not be responsible for costs associated with the employee's **internet access or workspace.** However, if an employee is in need of a reasonable accommodation in accordance with the Americans with Disabilities Act

(ADA), an employee may submit such a request to Human Resources and such requests will be considered to the extent that a reasonable accommodation exists and would not create an undue hardship on the Town of Gray. **See Section 2, Subsection C.**

Consistent with the Town's expectations of information security for employees working at the office, employees working remotely will be expected to ensure the protection of proprietary Town and citizen information accessible from their remote workspace. Additionally, employees shall maintain all work product and records in a manner consistent with the Town's standard recordkeeping practices and in full compliance with the Maine Freedom of Access Act and Record Retention Rules established by the Maine State Archivist. Employees shall not delete or destroy any records that are otherwise required to be maintained by the Town per these laws and rules.

The Town Manager reserves the right to revoke the eligibility of an employee for remote work at his/her discretion. Notice of revocation will be given as far in advance as possible, but shall not be required.

#### **H. Emergency Telework**

In the event of an emergency such as a weather disaster or pandemic, the Town Manager may allow or require certain employees to temporarily work from home to ensure business continuity.

- These employees will be advised of such work requirements by the Town Manager or their Department Head.
- These employees are required to stay in communication and follow guidance provided by their Department Head.

Preparations should be made by employees and department heads well in advance to allow remote work in emergency circumstances. The Communications & Information Department is available to review equipment needs and to provide support to employees in advance of emergency telework situations.

### **Section 9 – Safety**

The Town of Gray recognizes that an organized and systematic loss control program is important to our operational and administrative systems. The safety and health of employees and of the public and the protection from loss of the Town's physical facilities is both a moral and legal obligation.

The Town will undertake initiatives to maintain safe and healthful working conditions and facilities, develop safe operating procedures, and utilize its financial and personnel resources to achieve a loss-free environment for our employees and for the public.

The responsibility for this undertaking is shared by the Town Manager, Department Heads, and employees. Oversight of the loss control/safety program will be done by a **Safety** Committee of various employees as approved by the Town Manager. However, all employees must work cooperatively to ensure that workplace safety is a matter of continual concern, equal in

importance to all other operation considerations.

The Town requires all employees to complete mandatory safety training that complies with Federal (OSHA), State and local requirements. Each Department Head is required to ensure the proper training for each of their employees. Written proof, signed by the employee and Department Head/Certified Training Authority or a valid certificate of course completion, shall be required for all training, and will be added to each employee's personnel file. Employees are expected to abide by all safety rules and regulations, which shall be posted on bulletin boards, announced at staff meetings, or otherwise communicated by the Town. An employee's failure to comply may result in disciplinary action up to and including termination.

### **A. Workers' Compensation**

The Town participates in a federally mandated Workers' Compensation program. The following actions are required by all employees:

1. All injuries to personnel, no matter how minor, during the work schedule will be reported immediately to the Department Head or Human Resources, but in no event later than sixty (60) days after the date of injury. Maine law requires the Town to file a First Report of Injury with the Workers' Compensation Board within seven (7) days of receiving notice of an injury. A copy of the report will be provided to the employee and added to the employee's confidential personnel file as well as the annual OSHA Form 300 file maintained by Human Resources.
2. An employee suffering an on-the-job injury **that requires examination** will be sent to the Town-specified doctor for examination at the Town's expense.
3. The employee will receive their normal pay for that day and, if eligible, will be entitled to utilize sick, vacation or personal time respectively for any regularly-scheduled time missed between the incident and the date that workers' compensation benefits may begin.

### **B. OSHA Form 300**

OSHA Form 300 is a form to record all reportable injuries and illnesses that occur in the workplace. An annual log is completed for each Town work site by Department Heads/staff assigned by Human Resources. The summary form must be posted in the workplace from February 1 to April 30 of the year following the year covered by the form at each work site. Human Resources maintains all logs and summaries for submission to OSHA. OSHA Form 300 logs and summaries are kept for five years. For more information, please visit the Occupational Safety and Health Administration website at [www.osha.gov/recordkeeping](http://www.osha.gov/recordkeeping).

### **C. Return to Work**

The Town of Gray is concerned about the health and well-being of its employees. We are committed to working with our employees and their healthcare providers to find work designed to assist injured workers in transitioning back to the workplace by performing meaningful work within their capabilities.

### *Process*

The Town may require written documentation from a licensed physician describing the limitations, progress, and physical abilities of the employee, subject to the limitations of applicable state and federal law.

To accommodate temporary work restrictions, there must be a reasonable expectation that the employee will be able to resume full duties within/or by thirty (30) calendar days (subject to available work that will be beneficial to the employer). Work consistent with temporary work restrictions may be assigned to the employee for up to 30 calendar days (or until the employee is capable of returning to full duty, whichever occurs first). In the event that a modified duty assignment becomes available, the employee is expected to accept the assignment.

The employee is expected to be an active participant in this process by providing M1 Practitioner's Reports (a Workers' Compensation Board form completed by the physician) following medical appointments and communicating changes in their restrictions. The employee and employer commits to following restrictions as outlined in the M1 Practitioner's Reports or otherwise agreed upon.

### *Note*

This policy recognizes the Family Medical Leave Act, the Town of Gray Personnel Policy, along with Standard Operating Procedures (SOPs) that the department may have. It is intended to work in conjunction with them.

Modified work is not intended to be used as permanent reasonable accommodation under the Americans with Disabilities Act. Provided, however, that in the event an employee requires a temporary work restriction or accommodation beyond thirty (30) calendar days, the Town will evaluate such needs pursuant to applicable state and federal law, including, but not limited to, the Americans with Disabilities Act as amended.

No temporary work assignment described or covered under this guideline is intended or offered as a permanent assignment.

## **D. Substance Use**

**The Town believes that employees and members of the public should be able to conduct business in an environment free from smoking, alcohol, and drug abuse.**

1. **Drugs** - No employee may use, possess, distribute, sell or be under the influence of drugs while on the job or representing the Town. Prescription drugs may be used only if they do not impair the employee's job performance.
2. **Alcohol** - No employee may use, possess, distribute, sell or be under the influence of alcohol while on the job and / or representing the Town at official Town proceedings or at Town-hosted events, except those related to Town Council-approved economic development campaigns as described in **the Travel Expenses section**.
3. **Smoking** - Smoking is not allowed in any workplace. It is the policy of the Town to comply with all applicable federal/state laws, and any local ordinance regarding no smoking in the workplace and in public places. **Here is an** excerpt from the Town of

Gray “No Tobacco, Alcohol or Medical Marijuana Use” Ordinance:

“No person(s) shall use or partake of any form of tobacco, alcohol or medical marijuana on/in Town of Gray property, 365 days a year, 24 hours a day. There will be no designated areas to use or partake of any form of the same on/in Town of Gray property. No litter associated with tobacco, alcohol or medical marijuana may be discarded on/in Town of Gray property.”

Violations of this policy will result in disciplinary action, which may include termination.

### **E. Drug-Free Workplace Act**

Under the Drug-Free Workplace Act, any employee who performs work for a government contract or grant must notify the Town of a criminal conviction for drug- related activity occurring in the workplace. Employees concerned with substance dependency and abuse issues are encouraged to discuss these matters with their supervisor, **Human Resources**, or the Town Manager.

### **F. Infectious Disease**

See Appendix for the Infectious Disease Policy.

## **Section 10 – Conduct**

### **A. Employee Conduct**

All employees of the Town are expected to follow rules of conduct that will protect the interest and safety of all employees and the Town. Situations or conduct which would reflect negatively or bring discredit upon the Town are also unacceptable. It is not possible to list all forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions that may result in disciplinary action, up to and including termination of employment:

1. Theft or inappropriate removal or possession of property;
2. Falsification of time-keeping records;
3. Working under the influence of alcohol or illegal drugs;
4. Possession, distribution, sale, transfer or use of alcohol or illegal drugs in the workplace while on duty or while operating employer-owned vehicles and equipment;
5. Fighting or threatening in the workplace;
6. Boisterous or disruptive activity in the workplace;
7. Negligence or improper conduct leading to damage of employer-owned or customer-owned property;
8. Insubordination or other disrespectful conduct;
9. Violation of safety or health rules;
10. Smoking in prohibited areas;
11. Sexual conduct or harassment of any kind;

12. Possession of dangerous or unauthorized materials such as explosives/firearms in the workplace;
13. Excessive absenteeism or any absence without notice;
14. Unauthorized absence from the work station during the workday;
15. Unauthorized use of Town owned equipment
16. Illegal or inappropriate activity engaged in while using Town-owned vehicles and equipment, including, but not limited to violation of federal/state law or local ordinance, including those governing cell phone usage and text messaging regulations;
17. Violation of the Personnel Policy;
18. Unsatisfactory performance or conduct.  
(This list is not intended to be exclusive.)

## **B. Workplace Violence**

In addition to the enumerated and non-exhaustive list of infractions listed in Section A, the Town prohibits employees from engaging in violence or the threat of violence in the workplace. Further, the Town will not tolerate violence or the threat of violence directed toward its employees and anyone who conducts business with the Town on Town property. The Town aims to maintain a safe work environment free from intimidation, threats, physical attacks, harassment, domestic violence, property crimes, or any other violent attacks. This includes, but is not limited to, intimidating, threatening or hostile behaviors, physical abuse, vandalism, use of weapons, or any other act which the Town finds to be inappropriate to the workplace. Violence or threatening behavior should be reported to a respective Department Head, Human Resources, and/or the Town Manager. Acts that are or may be illegal (including physical attacks, theft, vandalism, and stalking) shall also be reported to the Sheriff's Office.

## **C. Political and Outside Activities**

Except as otherwise provided by law, no person who is an employee of the Town shall be eligible to hold any **elected** office in the Town government.

While in the employ of the Town, an employee shall not:

1. engage in political activity while on duty;
2. use the influence of his or her employment capacity for or against any candidate for any county, state, federal, or Town elective office (i.e., Town Council or School Board); or
3. use Town facilities, equipment, materials, or supplies to communicate, organize, assist, or advocate for or against any candidate for any county, state, federal, or Town elective office, or for or against a political cause, regardless of whether he or she is on or off duty.

For purposes of this Section 10, political activity means to advocate expressly for or against any candidate for any county, state, federal, or Town elective office; to circulate nomination papers, petitions, or campaign literature for any county, state, federal, or Town elective office; to advocate expressly for or against a political cause; and/or to

knowingly give, solicit, accept, or receive a political contribute for any candidate for any county state, federal, or Town elective office or for a political cause.

This provision is not to be construed to prevent Town employees from carrying out the duties and responsibilities of an employee's position; from becoming, or continuing to be, members of any political organization; from attending political organization meetings; from donating personal time, service, or resources to a political cause or candidate for any office; from expressing their views on political matters; or from voting with complete freedom in any election.

The Town Manager shall endeavor to keep all municipal properties free of political or campaign literature and materials.

#### **D. Conflicts of Interest**

No employee of the Town shall have any financial interest in or profit from any contract, purchase, sale, or work performed by the Town unless otherwise provided for by the Town Council. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or immediate family.

Actual conflicts of interest, as well as incidents or situations which create the appearance of a conflict, must be avoided.

1. Employment - The Town discourages the employment of individuals to work in a direct or indirect line of supervision with an employee who is a member of the individual's immediate family. The Town prohibits officers or employees of the Town from using their official position to advance, advocate, hire, or promote the employment of their immediate family in any position. Employees must disclose to the Town Manager any employment relationship that may be a conflict of interest.
2. Purchasing - No Town employee who is authorized to make purchases shall have any interest, either directly or indirectly in any contract with the Town. No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if employees have any influence or transactions involving purchases, contracts or leases, it is imperative that they disclose this, as soon as possible, to an officer of the Town, the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.
3. Gratuities - Compensation paid to the employee in accordance with the Pay Schedule, and reasonable expenses as approved by the Town Manager, shall constitute the sole remuneration for services rendered by an employee in the discharge of Town duties. No additional reward, gift or other form of remuneration shall be accepted by any employee for the discharge of their Town duties. Acceptance of nominal gifts, such as food and refreshments in the ordinary course of business, or unsolicited advertising or promotional materials such as pens, note

pads, calendars, etc., is permitted.

Personal gains may result not only in cases where an employee or relative has a significant ownership in a firm with which the Town does business, but also when an employee or relative receives any “kickbacks”, bribes, substantial gifts or special consideration, as a result of any transaction or business dealings involving the Town.

#### **E. Outside Employment**

A Town employee may engage in outside employment. However, no employees may engage in outside employment which in any manner interferes with the proper and effective performance of the duties of their position, results in a conflict of interest, or if it is reasonable to anticipate that such employment may subject the Town to public criticism or embarrassment. Employees must inform their Department Head who shall inform the Town Manager of their outside employment. If the Town Manager determines that such outside employment is disadvantageous to the Town, they shall notify the employee in writing that the outside employment must be terminated. Any employee who engages in employment outside their regular working hours shall be subject to perform their regular duties first.

#### **F. Confidential Information**

During the course of their duties, employees of the Town are often privy to information about individuals, which is sensitive and should be kept confidential. Examples include, but are not limited to, labor relations, financial data, General Assistance, and personnel actions. Employees are expected to respect the confidential nature of such information. Violations will result in disciplinary action, which may include termination.

#### **G. Professional Dress Standards**

Appropriate professional attire ensures a safe, distraction-free work environment. Town of Gray employees, including volunteers, interns, and any other individual who would represent the Town, are expected to dress appropriately, and present a professional image while at work.

##### *Professional Attire*

Professional attire is expected of all employees consistent with the work location and the nature of work. Employees are asked to use good judgment and present themselves at all times in a manner that best represents the Town. Inappropriate attire includes clothing that is too tight or revealing; clothing with rips, tears, holes, or frays; or any extreme style or fashion in dress, footwear, accessories, fragrances, or hair. Basic elements for appropriate attire include clothing that is in neat and clean condition.

Examples of appropriate Town Hall office and Gray Public Library attire include:

- Shirts: Shirts with collars, professional or business casual blouses or tops. Examples of inappropriate shirts include T-shirts, shirts with inappropriate

slogans, tank tops, muscle shirts, camouflage, and crop tops.

- **Pants:** Dress slacks, trousers, and denim. Examples of inappropriate pants include shorts, camouflage, and pants worn below the waist or hip line.
- **Shoes:** Dress shoes, loafers, dress sandals. Examples of inappropriate footwear include flip-flops and construction or hunting boots.

Departments may elect to establish different standards based on job roles, safety / OSHA requirements, and level of interaction (or lack thereof) with members of the public. Departments with specific uniform practices in place should refer directly to department guidelines.

#### *ID Badges*

Employees visiting or working in Town Hall and the Library must wear their Town-issued ID badge and display the badge where it can be easily read. Picture IDs should be clear and unmarked.

#### *Procedures*

Department Heads or those with supervising responsibilities are accountable for supporting and enforcing dress and appearance standards in their areas of responsibility. This includes coaching employees whose appearance is inappropriate. Employees who do not meet a professional standard may be sent home to change, and nonexempt employees will not be paid for that time. Repeated violations will lead to disciplinary action as determined by the Personnel Policy. Questions about procedures should be referred to Human Resources or the Town Manager.

#### *Accommodations*

Exceptions and reasonable accommodations will be made as needed. For instance, managers may make appropriate exceptions for special occasions or in the case of inclement weather, at which time employees will be notified in advance. An employee who is unsure of what is appropriate should check with their Department Head.

Additionally, the Town of Gray respects the religious beliefs of its employees and will make, upon request, an accommodation in terms of workplace attire when accommodation is available and does not create an undue hardship or safety issue for the Town. Requests for religious accommodation should be made in writing to the Town Manager.

## **H. Electronic Communication**

**The Town's electronic communication equipment and services (such as phones, fax lines, computers, internet, voicemail, and email) are to be used for conducting Town business only. Employees may not access a file or retrieve any stored communication without permission. Any downloading of materials or loading of software onto any part of the Town's system without permission of the Communications & Information Department is prohibited.**

Employees may not use the Town's electronic equipment and services to solicit anyone for any commercial, religious, charitable, or political causes, or for outside organizations. Employees may not harass or disparage others based on any basis prohibited by law; or obtain, display, or transmit any information that is of a sexual nature, that contain libelous or defamatory material, or anything that would not be permitted on any bulletin located on Town property.

The Town reserves and will exercise the right to review, audit, intercept, access, and disclose all matters on the Town's communication equipment and services at any time, with or without employee notice, and that such access may occur during or after working hours. The use of a password does not restrict management access. Violation of this policy may result in disciplinary action, up to and including termination.

## **I. Personal Phone Usage**

Staff are expected to avoid making or receiving personal calls during work hours. Urgent calls to/from family members can be made/received and should be brief. Employees are expected to exercise the same discretion in using personal cell phones.

Employees contacted by creditors or collection agencies should immediately inform the caller of this policy and end the call. The employee should inform the agency in writing advising them not to contact them at work. Creditors failing to honor such a request can be reported to the Federal Trade Commission at [www.ftc.gov](http://www.ftc.gov).

## **Section 11 – Policy Against Harassment**

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. All employees must avoid offensive and inappropriate or harassing behavior at work and are responsible for assuring that the workplace is free from hostile behavior at all times.

This policy refers not only to supervisor-subordinate actions but also 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.

### **A. Sexual Harassment**

Sexual harassment is the attempt to control, influence or affect the career, salary, or job of an individual in exchange for sexual favors. Sexual harassment can also be conducted which creates a hostile or offensive work environment or unreasonably interferes with a person's ability to perform their job. Sexual harassment is an extremely serious matter. It is prohibited in the workplace by a person and in any form.

- 1) Specific conduct which is prohibited includes, but is not limited to:
  - a) Threats or insinuations, implicit, that any employee's refusal to submit to sexual

advances will adversely affect the employee's retention, evaluation, wages, promotion, duties or any other condition of employment;

- b) Unwelcome sexual flirtations, advances, or propositions;
- c) Verbal or written abuse of a sexual nature;
- d) Graphic verbal comments about an individual's body;
- e) Sexually degrading words used to describe an individual, or
- f) The display in the workplace of sexually suggestive objects, comments or pictures.

Any Department Head or employee who is found after appropriate investigation to have engaged in sexual harassment will be subject to discipline, up to and including **termination**.

## **B. Harassment**

Derogatory or vulgar comments or actions regarding a person's sex, sexual orientation, religion, age, ethnic origins, race, physical appearance, or the distribution of written or graphic materials having such an effect, are prohibited. Any employee who believes he/she has been the subject of such harassment should report the alleged conduct to their Department Head, **the Human Resources Director**, or the Town Manager. Any employee who is found, after appropriate investigation, to have engaged in any harassment will be subject to discipline, including **termination**.

## **C. Reporting a Complaint**

Any employee who believes he/she has been the subject of harassment should report all alleged acts to their Department Head, **Human Resources**, or the Town Manager. If the complaint concerns the Town Manager then the employee should bring the matter to the attention of the **Human Resources Director or the** Town Council Chairperson.

## **D. State Law**

Effective October 19, 1991, the Maine Legislature passed a new law regarding Sexual Harassment in the Workplace. In compliance with this law, the Town is also required to provide annual written notification to all employees regarding sexual harassment. The Town is also required to provide training to all new employees on sexual harassment before their first anniversary of employment. In addition, new supervisors must receive information on their responsibility to take immediate and corrective action in addressing sexual harassment complaints.

## **Section 12 – Termination and Rehiring**

**All terminations of employees from positions in the service of the Town shall be designated as**

one of the following types and shall be accomplished in the manner indicated: resignation, retirement, reduction in force, death, or dismissal.

**A. Resignation or Retirement**

An employee may voluntarily terminate their Town employment (resign or retire) in good standing. Retirement is initiated by an employee meeting age requirements. To resign or retire, the employee is encouraged to provide adequate notice—specifically, written notice at least fourteen (14) days in advance of the last day of work. Failure to provide adequate notice may be cause for denying future employment with the Town and disqualify the employee from any payments that may have been issued to them for a resignation in good standing. The Town Manager may allow an employee to resign or retire in good standing in light of a shortened period of notice if doing so is in connection with extenuating circumstances.

**B. Reduction in Force**

Reduction in force (or layoff) is the involuntary termination of an employee due to lack of work or funds, outsourcing of services, decreased workload, or elimination of the employee’s position due to reorganization. Employees who are separated because of a reduction in force shall be given at least two weeks’ notice of the anticipated action.

**C. Death**

Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of the employee.

**D. Dismissal**

Dismissal (or involuntary termination of employment as a disciplinary action) is explained in Section 13.

At the time of termination an exit interview may be scheduled. Employees will receive final pay in accordance with State law at the next regularly scheduled pay date. Employees must return all property belonging to the Town at the time of their termination or upon immediate request.

**E. Rehiring**

Under this policy, an employee who resigns in good standing or is laid off may be rehired with the approval of the Town Manager and will be regarded as a new employee (vacation leave and service start over), unless Break in Service rules under the Affordable Care Act require otherwise.

**Section 13 – Disciplinary Action**

**A. Grounds for Discipline**

The Town shall base disciplinary actions or measures on a “just cause” basis. Under normal circumstances, the Town endorses a policy of progressive discipline to provide employees with notice of deficiencies and an opportunity to improve. The Town expects employees to comply with its standards of conduct and performance and to correct any noncompliance with these standards.

## **B. Types of Action**

Outlined below are the Town's progressive discipline procedures. The Town reserves the right to combine or skip steps depending on the facts of each situation and the nature of the offense.

1. Verbal warning
2. Written warning
3. Suspension
4. Termination

Verbal and written warnings identify each issue of discipline, as well as the appropriate corrective measures to be taken by the employee (including their time frame for completion) in order for the Town to consider each issue as resolved. Department Heads are responsible for communicating warnings after consultation with the Human Resources Director.

Suspension of employment is a period of paid or unpaid leave during which the employee is relieved of duty and will not be permitted at the job site. This action is taken when performance, conduct, or safety incidents necessitate a review. When immediate action is necessary to ensure the safety of the employee or others, the immediate supervisor may suspend the employee pending review. All other suspensions are subject to approval from the Town Manager or Human Resources Director.

Termination of employment may be necessary in cases where corrective actions have failed to improve performance, obtain compliance with Town policies, and/or correct inappropriate conduct. Under no circumstances shall an employee be terminated without Town Manager or designee approval. If immediate removal from the work site is necessary, the employee shall be suspended pending review.

This policy does not provide contractual rights regarding employee discipline or counseling, nor should anything in this policy be read or construed as modifying or altering the employment-at-will relationship between the Town and its employees. Any time the Town determines it is necessary, such as in the case of a major breach of policy or violation of law, the Town reserves the right to immediately proceed to appropriate action, up to and including termination.

## **C. Paid Administrative Leave**

When the situation warrants, the Town may consider paid administrative leave, which is a non-disciplinary action that allows the Town to remove the employee from the workplace for reasons other than disciplinary issues, such as when an investigation is conducted or when there is a safety concern in the workplace. Notice of paid administrative leave shall provide the cause, time frame, and conditions for reinstatement. As previously stated, paid administrative leave is not considered to be in and of itself discipline.

## **D. Documentation**

If a disciplinary action is taken, a copy of the decision regarding the action shall be filed in the employee's personnel file and a copy given to the employee. The employee will be asked to sign copies of this documentation attesting to his or her receipt and understanding of the corrective action outlined in these documents. The employee has the right to respond in writing and to have this response placed in the employee's personnel file, provided that the written decision regarding disciplinary action is also kept in the personnel file indefinitely.

## **E. Appeals**

In the case of Step 3 or Step 4 disciplinary actions, the employee will have the right to appeal the disciplinary action to the Town Council by providing written notice to the Town Manager within ten (10) work days. Upon receipt of the written notice of appeal, the Town Manager will promptly inform the Town Council. The Town Council will hold a hearing within fifteen (15) work days to review the appeal and issue a decision. The decision of the Town Council shall be final.

## **Section 14 – Grievance Procedure**

Grievances are disputes, claims, or complaints of issues relating to the employer-employee relationship. The procedures outlined below allow Town employees to receive a fair and unbiased review of workplace concerns, other than appeals of a disciplinary action. Human Resources maintains records of the grievance process confidentially and securely.

### *1. Informal Discussion*

The employee's concerns should first be discussed with the Department Head. Many concerns can be resolved informally when an employee and Department Head meet to review the concern and discuss options to address the issue.

### *2. Written Complaint to Department Head*

If a grievance is not resolved after an informal discussion with the employee's Department Head, the employee may submit a written complaint within five (5) work days to his or her Department Head to include:

- The nature of the grievance.
- Detailed information including evidence of the issue, related policies, etc.
- The remedy or outcome desired.

The Department Head will have five (5) work days to respond to the employee in writing. If the employee complaint is regarding illegal harassment, discrimination, or retaliation, the employee should submit the written complaint directly to Human Resources.

### *3. Written Complaint to Town Manager*

If the employee is not satisfied with the response from the Department Head, the employee will have five (5) work days to submit a written complaint to the Town Manager. A copy

should also be sent to Human Resources. The request for review should include:

- A concise explanation of the grievance and details of all previous efforts to resolve the issue.
- A copy of the written complaint submitted to the immediate supervisor.
- A copy of the immediate Department Head's written response.
- Detailed information regarding the employee's dissatisfaction with the immediate supervisor's response

The Town Manager will evaluate the grievance and provide a written response within five (5) work days of receipt of the appeal. The Town Manager's decision shall be final.

#### *4. Written Complaint to Town Council*

If the grievance arises from an alleged act or omission on the part of the Town Manager, the grievance shall be filed with the Human Resources Director within ten (10) work days of the alleged incident, particular act, or omission. The grievance must include:

- A clear and concise statement of the facts giving rise to the grievance, including date, time and place of the alleged incident, if any, relating to the grievance, and characterizing each particular act or omission.
- A copy of any documents relating to the grievance (if any).
- A statement setting forth the remedy sought.

Upon receipt of the grievance, the Human Resources Director will promptly inform the Town Council. The Town Council will hold a hearing within fifteen (15) work days to review the grievance and issue a decision. The decision of the Town Council shall be final.

### **Section 15 – Severability**

If any provision of this Personnel Policy to any person or a circumstance(s) is held invalid, this invalidity does not affect other provisions or applications of the Personnel Policy which can be given effect without the invalid provision or application. For this purpose, the Personnel Policy is severable.

## **APPENDIX A - FAMILY MEDICAL LEAVE ACT**

*This appendix contains information from the U.S. Department of Labor. For the most current information, please visit [www.dol.gov/agencies/whd/fmla/law](http://www.dol.gov/agencies/whd/fmla/law)*

The **Family & Medical Leave Act** (29 U.S.C. § 2601 et seq.) is a federal law guaranteeing unpaid time off for employees to deal with family and personal matters. In 2008, the FMLA was amended, through the National Defense Authorization Act of 2008 (PL 110-181), to provide new leave entitlements related to military service. In addition, comprehensive new regulations promulgated by the U.S. Department of Labor (DOL) in November, 2008 have clarified and revised some FMLA requirements, effective January 16, 2009.

**“Traditional” Non-Military FMLA Leave.** The law requires covered employers to grant up to **12 workweeks** of unpaid leave in a 12-month period to eligible employees for the following reasons:

- 1) the birth and care of the employee’s newborn child;
- 2) placement of a child with the employee for adoption or foster care;
- 3) to care for the employee’s spouse, son, daughter or parent, (but not parent-in-law) with a serious health condition; or
- 4) for the employee’s own serious health condition that makes him/her unable to perform the functions of his/her position.

“*Serious health condition*” is defined in detail in DOL regulations. See 2008 regulations [29 C.F.R. §§ 825.113; 825.115](#). “*Son or daughter*” means a biological, adopted, or foster child, stepchild, legal ward or in a loco parentis relationship who is either under age 18, or over 18 and incapable of self care due to a physical or mental disability. See 2008 regulation [29 C.F.R. § 825.122](#) for more details.

**Military FMLA Leave.** Two new leave entitlements were provided in 2008 to deal with military family leave issues.

(1) **Military Caregiver Leave.** Eligible employees may take up to **26 workweeks** of unpaid leave within a 12-month period for the purpose of caring for a “covered servicemember.” The employee must meet the basic FMLA eligibility requirements discussed below and must also be the spouse, son, daughter, parent or “next of kin” of a covered servicemember.

- “*Next of kin,*” for the purposes of Military Caregiver leave, is the nearest blood relative of that individual other than the servicemember’s spouse, parent, son or daughter according to list of priorities in the regulations at [29 C.F.R. § 825.127](#).
- “*Covered servicemember*” means a current member of the Armed Forces, including the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. The term “*serious injury or illness*” is defined (**only** for the purpose of deciding who is a “covered servicemember”), as an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform his/her military duties. See 2008 regulation [29 C.F.R. § 825.127](#).
- Unlike other FMLA leaves, Military Caregiver leave starts on the first day leave is taken and ends 12 calendar months from that date, regardless of the usual method the employer uses to calculate the 12 month period for other FMLA leaves. See discussion below.
- An employee is limited to a combined total of 26 workweeks of FMLA leave in one 12-month period, which includes all FMLA leave taken for any reason.

- An employee may take additional 26-week Military Caregiver leaves for a different service member or to care for the same servicemember with a subsequent injury or illness, provided that no more than 26 weeks of leave may be taken in one 12-month period.
- The Military Caregiver Leave entitlement became effective immediately upon passage on January 28, 2008.

(2) **Qualified Exigency Leave.** Eligible employees may take up to **12 workweeks** of unpaid FMLA leave in a 12-month period because of a “qualifying exigency” arising out of the fact that the employee’s spouse, son, daughter or parent is a “covered military member” who is on active duty, or call to active duty status, in support of a contingency operation.

- A “*qualified exigency*” is defined in the regulations to include a number of broad categories for which leave may be used. These include:

- o Short-notice deployment (used up to 7 days from notification date);
- o Military events and related activities;
- o Childcare and school activities;
- o Financial and legal arrangements;
- o Counseling (other than with a medical provider);
- o Rest and recuperation leave of up to 5 days;
- o Post-deployment activities (may be used up to 90 days from termination of active duty status); and
- o Additional activities not part of the categories listed above, but agreed to by employer and employee.

Additional detail and examples of each of the types of qualifying exigency are provided in the 2008 regulations at [29 C.F.R. § 825.126](#) and in the U.S. DOL [Fact Sheet on Military FMLA Leave](#).

- “*Covered military member*” as used for Exigency Leave is *not* the same as the term “covered servicemember” as used for Military Caregiver Leave. A “covered military member” includes members of the National Guard, the Reserve, or certain retired members of the Regular Armed Forces or retired Reserve. The Exigency Leave entitlement was **not** extended to family members of members of the Regular Armed Forces. In addition, the call to duty must be a federal call to active duty. State calls to active duty are not covered unless under certain orders of the United States President as listed in the regulations. See 2008 regulation [29 C.F.R. § 825.126\(b\)](#) for more detail. 29 C.F.R. § 825.126(b)

- An employer may request copies of the military member’s orders or other documentation from the military, and may request that the employee provide certification of the exigency. The DOL has created a form ([Form WH-384](#)) that employers may use for this purpose. Also see 2008 regulation [29 C.F.R. § 825.309](#) for more information. 29 C.F.R. § 825.309

### **Employee Eligibility:**

In order to be eligible for any type of FMLA leave, an employee must work for a covered employer and meet the following criteria:

- The employee must have worked for the employer for at least 12 months (in total, and not consecutively). According to the 2008 FMLA regulations, employers do not need to count breaks in service of more than 7 years. Several exceptions to the 7 year limit are listed in 2008 regulation [29 C.F.R. § 825.110\(b\)](#);
- The employee must have worked at least 1,250 hours over the 12-month period immediately preceding commencement of the leave;
- The employee must work at a job site at which there are at least 50 employees or at least 50

employees must work within 75 miles of the work site.

All “public agencies” are covered employers under the federal FMLA. 29 C.F.R. § 825.108. This includes federal and state governments, municipalities, or government agencies. *Id.* However, even though a municipality is a “covered employer” under the FMLA, it may not be required to provide FMLA leave to its employees because the municipality may have no “eligible” employees. As noted above, in order to be eligible for FMLA leave, an employee must work at a worksite where there are at least 50 employees, or at least 50 employees must work within 75 miles of the employee’s worksite. Thus, in practice, a municipality must have at least 50 employees (within a 75-mile area) before it will be required to grant leave under the federal FMLA. See 2008 regulation [29 C.F.R. § 825.108\(d\)](#).

*Determining number of employees employed:* Before deciding if the 50-employee threshold has been met, one must determine which entity is the “public agency” or municipal employer. Generally, a municipality is considered a single employer for purposes of determining employee eligibility. See [29 C.F.R. § 825.108\(c\)](#). Often questions arise as to whether the “municipality” includes school, sewer, water or other municipal functions, or whether these are separate employers for purposes of the FMLA. DOL regulations indicate that this determination should be made on a case by case basis and that the U.S. Bureau of Census, *Census of Governments* may be used as one guiding factor on this issue. See [29 C.F.R. § 825.108\(c\)](#) and [www.census.gov/govs](http://www.census.gov/govs). Once the bounds of the municipal employer are determined, one must then determine how many “employees” that employer employs. The FMLA uses the same definition of “employee” used in the Fair Labor Standards Act. ([29 U.S.C. § 203](#)). Because there are numerous exceptions and qualifications applicable to the determination of the municipal employer and number of employees, municipalities are strongly encouraged to seek legal advice in determining if the 50-employee threshold has been met.

### **Counting the 12-month leave period:**

The law requires employers to provide 12 workweeks of leave within a “12-month period” for all types of FMLA leave except Military Caregiver leave. Employers may choose among 4 methods to calculate the 12-month leave period provided the method chosen is applied consistently and uniformly to all employees. See [29 C.F.R. § 825.200](#). These are:

- (1) a calendar year;
- (2) any fixed 12-month year, such as a fiscal year, or a year beginning on the employee’s anniversary date;
- (3) a 12-month period measured forward from the date any employee’s first FMLA leave begins; or
- (4) a rolling 12-month period measured backward from the date an employee uses FMLA leave.

Municipal employers that have eligible employees (i.e., over 50 employees within a 75-mile radius) are encouraged to adopt a policy that notifies employees of the method the employer has chosen to measure the 12-month period. If the employer does not designate a method of calculating the leave year in advance, the employer must allow employees to use whatever counting method that would be most beneficial to the employee. [29 C.F.R. § 825.200](#). When implementing (or changing) a method of calculating the leave year, the employer must give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. *Id.*

## **Certification:**

Employers may require that employees provide certification of the need for leave under the Military Exigency leave entitlement. The DOL has issued a form that may be used to certify this exigency. See [Certification of Qualifying Exigency for Military Family Leave \(Form WH-384\)](#).

Employers may require medical certification of the need for leave when leave is requested to care for the employee's family member, a covered servicemember or for the employee's own serious health condition. Generally, the employee must be allowed at least 15 days to obtain the certification. The DOL has published three new forms that may be used to obtain medical certification Individual forms were created to certify:

- (1) the employee's own serious health condition ([Form WH-380-E](#));
- (2) a family member's serious health condition ([Form WH-380-F](#));
- (3) and a covered service member's serious injury or illness ([Form-385](#)).

Second or third medical opinions are potentially available at employer expense. See the DOL's [Compliance Guide](#) for more information concerning medical certification and 2008 regulations at [29 C.F.R. § 825.305 – 825.313](#).

Recertification of the need for leave may be required generally no more often than every 30 days and only in connection with an absence. Additional guidelines and restrictions, including those relating to recertification of intermittent leave, are outlined in the regulations at [29 C.F.R. § 825.308](#) and [825.305](#).

*Fitness for Duty.* Pursuant to a uniformly applied policy, an employer may ask for medical certification of fitness to return to work upon completion of approved leave for the employee's own serious health condition. Any such inquiries must be consistently applied, and must be sought only in regard to the particular health condition that caused the need for leave. Under the 2008 FMLA regulations, an employer may require that the certification address the employee's ability to perform the essential functions of the job, *if* the employer provided a list of these essential functions no later than the time it provided the [Designation Notice \(Form WH-382\)](#) to the employee. In addition, the Designation Notice must have indicated that the Fitness for Duty Certification would be required to address these functions. No second or third opinions on a Fitness for Duty certification are allowed, although an employer may ask for clarification of the certification within specific limits in the regulations. See 2008 regulation, [29 C.F.R. § 825.312](#). For more information concerning certification requirements, see 2008 regulations at [29 C.F.R. §§ 825.305 – 825.313](#).

## **Intermittent Leave:**

If medically necessary, intermittent leave or a reduced work schedule must be allowed under the federal FMLA to care for a child, parent, or spouse or for the employee's own serious health condition. Intermittent leave may also be used to care for a covered servicemember with a serious injury or illness. In addition, only the amount of leave actually used while on an intermittent/reduced leave schedule may be charged against the employee's leave entitlement. Employers may not require an employee to use more time than necessary and must account for the intermittent leave, using the smallest time segments available in their timekeeping system (which must be an hour or less). Intermittent leave for the birth or placement of a child is only available with consent of the employer. See [29 C.F.R. § 825.202 - 825.205](#).

## Employer Notice Requirements:

- o All covered employers must post the DOL's **FMLA Poster/General Notice** ([Form WH-1420](#)) in a conspicuous location even if the employer has no eligible employees. (Note: the DOL has issued a new poster in conjunction with its 2008 regulations).
- o Employers with any eligible employees *must* provide the same information contained in the FMLA Poster/General Notice in any handbooks and/or any written policy materials. If the employer does not maintain policy manuals or written policy materials, the employer must provide general information on FMLA rights to new employees at the time of hire. Electronic distribution of the notice is allowed, if certain conditions are met. See new regulation [29 C.F.R. § 825.300](#).
- o Within five business days after a leave request is received, or the employer has been made aware of the employee's need for leave, the employer must give the employee a notice concerning his/her basic eligibility for leave (e.g. whether the employee has worked for the employer for 12 months, 1,250 hours and/or whether the 50 employee threshold has been met). At the same time, the employer must also furnish a notice outlining the employee's rights and responsibilities relating to FMLA leave. The notice must indicate any requirement to provide certification of the need for leave, whether military or non-military. Specific information which must be included in the notices includes: requirements relating to substitution of paid leave, key employee status, requirements for periodic reports, benefit premium payments, and several other items listed in new regulations at [29 C.F.R. § 825.300\(b\)](#). The notice of eligibility may be verbal or in writing. The DOL has created a sample form entitled,

**Notice of Eligibility & Rights and Responsibilities** ([Form WH-381](#)) which satisfies this employer obligation.

- Within five business days after the employer gains enough information to make a determination as to whether the requested leave qualifies as FMLA leave (e.g. medical certification has been received), the employer must provide a "**Designation Notice**" to the employee. The Designation Notice notifies the employee whether the leave will be designated as FMLA leave and counted against the employee's leave entitlement. If the employer plans to require a fitness for duty certification upon return to work, and/or if the employer will require that the certification address the essential functions of the employee's job, these requirements must be included in the Designation Notice, along with a list of those essential functions. A sample **Designation Notice** ([Form WH-382](#)) has been prepared by the DOL. See 2008 regulations, [29 C.F.R. § 825.301](#) for more details on Designation Notice requirements.
- The employer must notify the employee of the amount of leave counted against the employee's FMLA leave entitlement. If the amount of leave is known at the time the employer designates the leave as FMLA-qualifying, the employer must notify the employee of the number of hours, days, or weeks that will be counted against the employee's FMLA leave entitlement in the Designation Notice. If it is not possible to provide the information with the Designation Notice, the employer must provide notice of the amount of leave counted against the employee's FMLA leave entitlement upon the request by the employee, but no more often than once in a 30-day period and only if leave was taken in that period. The notice may be oral or in writing, but if oral notice is given, it must be confirmed in writing no later than the following payday. The written notice

may be in any form, including a notation on the employee's pay stub. See 2008 regulation 29 C.F.R. § 825.300(d)(6).

### **Employee Notice Obligations:**

Generally, employees must provide at least 30 days notice of the need for leave that is foreseeable. See [29 C.F.R. § 825.302](#) for more detail. For unforeseeable leave, an employee or his/her spokesperson must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. The regulations provide that it generally should be practicable for the employee to provide notice of unforeseeable leave within the time prescribed by the employer's usual and customary notice requirements. See [29 C.F.R. § 825.303](#) for more detail.

### **Preservation of benefits:**

During an approved leave, the employer must maintain the employee's group health insurance on the same terms as if the employee continued to work.

The employer is not required to maintain other non-health insurance benefits (such as life insurance) during the leave. However, the FMLA does require employers to restore an employee returning from approved leave to the same benefits he/she had prior to the leave, with no penalty or waiting periods. Thus, if an employee fails to pay his/her benefit premiums during the leave, an employer may decide to continue such benefits at its own expense during the leave or should make sure that applicable benefit plans allow immediate resumption of benefits. See the [DOL Compliance Guide](#) and 2008 regulation [29 C.F.R. §§ 825.209 – 825.215](#) for more information.

### **Substitution of Paid Leave:**

FMLA leave is generally unpaid leave. However, employees may substitute available paid leave for otherwise unpaid FMLA leave. Employers may also require that an employee use available paid leave. Any paid leave time used by the employee does count toward the employee's FMLA leave entitlement. The 2008 regulations clarify that if an employee wants to substitute paid leave, he/she must comply with the employer's paid leave policies and procedures with respect to use of that paid leave. The employer must notify employees of any additional procedural requirements that apply to the use of paid leave in the **Notice of Rights and Responsibilities** (given to employees when leave is requested). See 2008 regulation [29 C.F.R. § 825.207](#) for more information.

### **Reinstatement:**

Upon return from an approved leave, the employee must be reinstated to the same or an equivalent position, with the same pay, benefits, and other terms and conditions. Certain exceptions apply for "key employees." See DOL [Compliance Guide](#) for more information on key employees.

**Education employees:**

Special rules apply to some employees of local educational agencies, including public elementary and secondary schools. “Instructional employees” are subject to special rules when taking leave (a) more than 5 weeks prior to the end of a term; (b) less than 5 weeks prior to the end of a term; and (c) less than 3 weeks from the end of a term. For more information see: [29 C.F.R. § § 825.600 – 825.604.](#)

**Discrimination:**

An employer may not interfere with, restrain or deny the exercise of FMLA rights. Employees may not be discharged or discriminated against for taking leave. Nor may the use of FMLA leave be used as a negative factor in a “no fault” attendance policy or in any employment action, including hiring, promotion or disciplinary actions. See 2008 regulation, [29 C.F.R. § 825.220.](#)

**Enforcement:**

The FMLA is enforced by the U.S. DOL’s Employment Standards Administration, Wage and Hour Division. The agency investigates complaints of violations, and is authorized to bring action in court to compel compliance. In addition, eligible employees may bring a private lawsuit against an employer for violations. An employee is not required to file a complaint with the Wage and Hour Division prior to bringing such action. See 2008 regulations at [29 C.F.R. § 825.400 – 825.404.](#)

## **APPENDIX B – MAINE FAMILY MEDICAL LEAVE ACT**

*This appendix contains information from the state of Maine. For the most current information, please visit <https://www.mainelegislature.org/legis/statutes/26/title26sec844.html>.*

Maine has enacted its own Family Medical Leave Law (MFMLA) entitling eligible employees of certain employers to 10 workweeks of leave in any two-year period. (26 M.R.S.A. § 843 *et seq.*; PL 2007 c. 233) The MFMLA is modeled after the federal FMLA, but has some important differences. It is very possible that some employees could be covered under either the state or federal FMLA laws, or both. Thus, when presented with a leave request, an employer should analyze the eligibility requirements of each law separately.

### **Covered Employers:**

Maine’s FMLA applies to city, town and municipal agency employers with 25 or more employees. *See* 26 M.R.S.A. § 843(3). The law defines “employee” quite broadly, to include any person “permitted, required or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment.” Employee does not include an independent contractor. 26 M.R.S.A. § 843(1).

### **Employee Eligibility:**

Employee eligibility under the MFMLA differs from the federal FMLA in three important ways:

- In order to be eligible for MFMLA leave, an employee must have worked for the same employer for at least 12 *consecutive* months (under federal law, the 12 month work requirement need not be consecutive).
- An employee must work at a permanent worksite with at least 15 employees.
- Under the MFMLA there is no 1,250 hour work requirement.

Thus, in some situations, an employee may not qualify for federal FMLA leave because the individual has not worked 1,250 hours in the previous year, but the individual may qualify for Maine FMLA leave because he/she has been employed for 12 consecutive months.

### **Leave Entitlement:**

Under the MFMLA, an eligible employee is entitled to up to 10 workweeks of leave in a two-year period for the following reasons. Effective September 20, 2007, the Legislature added “domestic partners” to the entitlement to leave, and added a new entitlement to leave for military deaths/injuries. Effective July 18, 2008, the MFMLA includes a right to leave for the purpose of caring for a sibling. (PL 2007 c. 519).

- (1) the birth of the employee’s child or the employee’s domestic partner’s child;
- (2) placement of a child 16 years of age or less with the employee or with the employee’s domestic partner in connection with the adoption of the child by the employee or the employee’s domestic partner;
- (3) A child, a domestic partner’s child, parent, domestic partner, sibling or spouse with a serious health condition;
- (4) The employee’s own serious health condition;
- (5) The donation of an organ of that employee for a human organ transplant;

(6) The death or serious health condition of the employee's spouse, domestic partner, parent, sibling or child if the spouse, domestic partner, parent, sibling or child as a member of the state military forces, as defined in 37-B M.R.S.A. §102, or the U.S. Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty. PL 2007 c. 388; PL 2007 c. 261.

*Serious health condition* is defined in the law as an illness, injury, impairment or physical or mental condition that involves: (a) inpatient care in a hospital, hospice or residential medical care facility; or (b) continuing treatment by a health care provider. 26 M.R.S.A. § 843(6).

*Domestic partner* is defined as: the partner of an employee who:

- Is a mentally competent adult as is the employee;
  - o Has been legally domiciled with the employee for at least 12 months;
  - o Is not legally married to or legally separated from another individual;
  - o Is the sole partner of the employee and expects to remain so;
  - o Is not a sibling of the employee; and
  - o Is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property. PL 2007 c. 375.

*Sibling* is defined as "a sibling of an employee who is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements."

### **Intermittent Leave:**

In response to a 2006 court decision that held that the MFMLA contained no requirement for intermittent leave, the Maine Legislature amended the law to allow intermittent leave in circumstances similar to the federal law. See *Brown v. Eastern Maine Medical Center*, 2006 U.S. Dist. LEXIS 50593 (D.Me. 2006); PL 2006 c. 233.

Effective September 20, 2007, the MFMLA requires covered employers to provide intermittent leave or a reduced work schedule, if medically necessary, for the employee's serious health condition, a parent, child, domestic partner or spouse with a serious health condition, or for organ donation. Intermittent leave for the birth, adoption or foster care placement of a child is available only by agreement of the employer and employee. PL 2006 c.233.

If intermittent leave is taken, the employer may temporarily transfer the employee to an available alternative position for which the employee is qualified and (1) which has equivalent pay and benefits and (2) better accommodates the intermittent leave schedule. PL 2006 c. 233.

### **Employee Notice/Certification:**

An employee needing leave is required to give at least 30 days prior notice of the intended start and end of leave, unless prevented from giving notice by a medical emergency.

The employee may be required to provide medical certification from a physician to verify the amount of leave needed. Note that the law allows an employee that has "in good faith" relied on treatment by prayer or spiritual means, pursuant to the tenets of a recognized church or

religious denomination, to submit certification from an accredited practitioner of those healing methods. 26 M.R.S.A. § 844(1)(B).

Employers must post a poster concerning MFMLA, available from the Maine DOL.

**Preservation of Benefits:**

An employer must allow an employee on leave to maintain employee benefits at his/her expense. The parties may negotiate to maintain benefits at employer expense.

**Restoration:**

At the conclusion of an approved MFMLA leave, the employer must restore the employee to the same or an equivalent position with same seniority status, benefits, pay and other terms and conditions of employment. There is a limited exception to the employee's right to job restoration, if the employer can prove that the employee was not restored to the same or equivalent position due to conditions unrelated to the employees exercise of leave rights. 26 M.R.S.A. § 845.

**Discrimination:**

The use of leave may not result in the loss of any employee benefits accrued before the leave was taken. Nor may the leave result in loss of seniority or contract rights. In addition, an employer may not interfere with, restrain or deny the exercise of or the attempt to exercise any right provided under the MFMLA. Nor may an employer discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for exercising any right under the Maine FMLA or for opposing any practice made illegal by the MFMLA. 26 M.R.S.A. § 846-7.

## **APPENDIX C - OPTIONAL BENEFITS**

- A. Vision Plan
- B. Dental
- C. Income Protection
- D. Medical Reimbursement Plan
- E. All other Town Manager approved plans that are 100% Employee funded

## **APPENDIX D – INFECTIOUS DISEASE POLICY**

### A. Purpose

This is to establish the policy of the Town for managing infectious disease issues as they relate to employees and/or prospective employees including but not limited to the following diseases: AIDS, Chickenpox, Hepatitis A, Hepatitis B, Impetigo, Measles, Mumps, Pertussis, and Parasitic Infestations. Any employee or volunteer who could or does come into contact with bodily fluids while performing their job as a Town employee or volunteer, should immediately reference the Town Exposure Control Plan. Copies of the Exposure Control Plan are available in the Town Manager's office, as well as in the Police, Fire/Rescue, Public Works and Community Services Departments.

### B. Policy

1. It is the policy of the Town to assure to the extent possible a safe and beautiful work environment.
2. It is also the policy of the Town to ensure full compliance with state, federal, and local requirements dealing with infectious diseases.
3. Town procedures shall comply with the Center for Disease Control recommendations for specific infectious diseases. These recommendations will be available through the employee's Department Head.
4. It is the obligation of all Town employees to take all reasonable precautions to protect themselves, co-workers, clients and the public from infectious diseases.
5. The Town shall make available to all employees and volunteers who have occupational exposure the Hepatitis B vaccination series and post exposure evaluation and follow-up. Please reference the Town Exposure Control Plan for detailed information on necessary procedure to follow.

### C. Procedures

- 1) The Town will not discriminate against employees and/or prospective employees with infectious diseases who are otherwise qualified to perform their job functions with reasonable accommodation. Employees with infectious diseases will be treated under existing policies, state, federal, and local requirements, and collective bargaining agreements.
- 2) Where allowed by law, the Town retains the right to test employees for infectious diseases.
- 3) The Town must maintain confidentially regarding an employee's health status, and does not have a duty to inform other individual or organizations unless required by law.

- 4) Upon medical confirmation of an infectious disease that may be a threat to the public health, the affected employee has the responsibility to notify the Town's Personnel Administrator, and to carry out his or her assigned duties if reasonable accommodations can be made.
- 5) Upon notification by an employee that an infectious disease has been confirmed and is a threat to the public health, the Personnel Administrator will:
  - a) Secure, if possible, all appropriate releases for information from the employee and notify those individuals for whom those releases have been acquired.
  - b) Assist in the identification of reasonable accommodations to be made, if any.
  - c) Assist individual departments, if necessary, in complying with this policy.
  - d) The Town will treat all occupational infectious disease injuries or illnesses according to state law.
- 6) The Town will provide appropriate educational opportunities and current informational material on infectious disease issues, including prevention, protection, control measures, and treatment practices.
- 7) Individual departments have the right to develop protocols regarding infectious disease control provided that those protocols conform to this policy.
- 8) An employee cannot refuse to carry out his or her assigned duties when dealing with a co-worker or the public with an infectious disease unless that individual makes a threat of harm to the employee. Failure to adhere to this procedure will result in disciplinary action.

D. Accidental Needle Stick Procedure

Police, fire, rescue and solid waste personnel have the highest risk of exposure to needles and syringes. Exposure to a used, contaminated needle places an employee at risk for contracting an infectious disease. In the event of an accidental puncture with a contaminated needle, the procedure is as follows:

- 1) Wash the puncture site thoroughly with soap/disinfectant and water.
- 2) Report the incident to your supervisor.
- 3) Police, fire or rescue personnel must notify the medical facility receiving the patient of the incident.
- 4) Complete Incident and/or Workers Compensation forms.
- 5) Establish your potential exposure risk to infectious diseases.

6) Notify your Department Head to establish your:

- a) Tetanus status,
- b) Hepatitis B status, and
- c) HIV exposure.

7) Seek further medical attention if necessary.

E. Procedure for Exposure to AIDS infection

If a Town employee is exposed to the blood or body-fluid of a known or highly suspected AIDS infected person:

- 1) Wash the exposed areas thoroughly with soap and water. Clean any spills with one (1) part bleach to ten (10) parts water solution.
- 2) Report the incident to your supervisor.
- 3) Complete the Incident and Workers Compensation forms.
- 4) Notify your Department Head as soon as possible to schedule an appointment for a voluntary blood test.
- 5) The blood test will be drawn within two weeks of the incident, six months later, and nine months later. The blood test is sent to the Maine Public Health Division in Augusta. Results are received approximately one week later. You will be notified of the test results.
- 6) If all three specimens are negative, you are considered not to be infected.
- 7) Counseling occurs with each visit or when requested, and is also available to family members and co-workers.
- 8) Emotional counseling is available through a counselor of the employee's choice and to be provided by the Town.
- 9) Strict confidence will be maintained in all incidences unless appropriate medical and/or information releases have been obtained.

## **APPENDIX E – EARNED PAID LEAVE (Effective January 1, 2021)**

As defined by 26 MRSA Section 1043(11), The State of Maine’s Earned Paid Leave (EPL) Law requires employers with more than 10 employees to provide earned paid leave equal to or in excess of the Earned Paid Leave Law.

Covered Employees: Covered employees under the Earned Paid Leave Law include, but may not be limited to, full-time, part-time, temporary, on-call, call firefighters (under certain work events and unless excluded as outlined below), and per diem employees.

Exclusions: Employees determined to be seasonal employees by the Unemployment Insurance Commission will not accrue Earned Paid Leave during the seasonal period of June 15 – September 15. Employees, such as Election Workers and call firefighters, who are paid less than \$1,000 in a calendar year, are excluded from the Earned Paid Leave Law. Additionally, call firefighters who are only paid when they choose to respond to a fire or other emergency may also be excluded from the Earned Paid Leave Law.

Regular Full-time and Part-time Employees: The Town of Gray currently provides a benefit greater than this EPL law for its regular full-time and part-time employees through its paid vacation, sick, personal, and wellness policies. To comply with Maine’s Earned Paid Leave Law, regular full-time and part-time employees may utilize up to 40 hours of accrued vacation, sick, or personal time during the calendar year for any type of time off as needed. Employees in this classification should refer to the Town’s established paid leave policies and contact their supervisor or Human Resources for clarification.

Accrual of Earned Paid Leave (EPL): All Covered Employees, other than Regular Full-time and Regular Part-time Employees as outlined above, are entitled to earn one hour of paid leave for every 40 hours worked, up to 40 hours in one calendar year of employment. Accrual of this leave begins at the start of employment, but may only be used as set forth below. Unused EPL time will roll over and be available to the covered employee in their next year of employment. However, the maximum amount of EPL available to the covered employee will not exceed 40 hours in one calendar year.

Use of Earned Paid Leave: Once eligible employees, including probationary employees, have been employed for 120 calendar days, they may use earned paid leave in increments of a minimum of ½ hour (30 minutes) for any reason, such as illness, personal and family emergencies, personal time, and vacation. Per diem and on call employees, who sign up, accept shifts when available to work, or are called in to work, may utilize Earned Paid Leave if they need to arrive late or leave early for a shift or have signed up for a shift but are not able to make or work the shift for some unforeseen reason. Per diem and on call employees are not eligible to use EPL for days on which they have not been assigned to a shift.

Notice Requirements: Eligible employees must provide at least four weeks’ prior notice to their supervisor of their intent to use this leave, unless leave is for an emergency, illness, or other sudden necessity where advance notice may not be feasible, and then notice must be given as soon as practicable.

Restrictions of use of Earned Paid Leave: EPL may be denied or canceled by the Department Head during defined peak work periods where approval of such leave would inhibit the ability of the department to safely maintain adequate levels of service to the community.

Leave Accrual upon Separation: (1) Regular full-time and part-time employees: Any unused Earned Paid Leave will be paid to regular full-time and part-time employees at time of separation consistent with existing Town vacation, sick, and personal time policies. (2) Temporary, on-call, and per diem employees: Employees of this classification who are covered employees and not otherwise excluded from eligibility to accrue EPL will not be paid for any unused and accrued Earned Paid Leave upon separation of employment. If a temporary, on-call, or per diem employee returns to work within 365 days of their last date of employment, that employee is entitled to any unused balance of EPL.

**TOWN OF GRAY  
EMPLOYEE PAID TIME OFF**

**Accrual Rates**

Full-Time Employees (Groups I & II)		
Years of Employment	Vacation Time per Pay Period	Sick Leave per Pay Period
Less than 5 years of Service	3.08 hours per pay period	3.692 hours per pay period
5-10 Years of Service	4.62 hours per pay period	<i>See above</i>
10 Years of Service or More	6.16 hours per pay period	<i>See above</i>

Part-Time Employees (Group III)		
Years of Employment	Vacation Time per Pay Period	Sick Leave per Pay Period
Less than 5 years of Service	.0385 hours per hour worked	.04615 hours per hour worked
5-10 Years of Service	<i>See above</i>	<i>See above</i>
10 Years of Service or More	<i>See above</i>	<i>See above</i>

**Vacation Time Accrual Cap**

Full-Time and Part-Time Employees (Groups I-III)		
Years of Employment	Maximum Vacation Time	Notes
Less than 5 years of Service	Two weeks (80 hours)	Accrual ceases at employee's individual limit at left. Time paid out upon separation.
5-10 Years of Service	Three weeks (120 hours)	Accrual ceases at employee's individual limit at left. Time paid out upon separation.
10 Years of Service or More	Four weeks (160 hours)	Accrual ceases at employee's individual limit at left. Time paid out upon separation.

**Sick Time Accrual Cap**

Full-Time and Part-Time Employees (Groups I-III)		
Years of Employment	Maximum Sick Time	Notes
Less than 5 years of Service	960 hours	Employees who have an excess of this cap as of October 1, 2022 will maintain their sick time hours until the accrued hours may fall below 960 hours.
5-10 Years of Service	<i>See above</i>	<i>See above</i>
10 Years of Service or More	<i>See above</i>	<i>See above</i>

### Payout for Accumulated Sick Time

Full-time Employees Only (Groups I & II)		
Years of Employment	Payout Amount	Notes
Less than 5 years of Service	0	No sick time paid out upon separation of employment.
5-10 Years of Service	50% of accrued sick time amount, 200 hours maximum	Employee must be in good standing with the Town.
10 Years of Service or More	50% of accrued sick time amount, 360 hours maximum	Employee must be in good standing with the Town.

### Personal Time

Full-time Employees Only (Groups I & II)		
Years of Employment	Time Received each Year	Notes
Less than 5 years of Service	16 hours	Personal time does not accrue year to year and is not subject to payout upon separation.
5-10 Years of Service	<i>See above</i>	<i>See above</i>
10 Years of Service or More	<i>See above</i>	<i>See above</i>

### Bereavement Time

Full-Time and Part-Time Employees (Groups I-III)		
Years of Employment	Bereavement Time	Notes
Less than 5 years of Service	Up to 3 days of absence caused by the death of a member of the immediate family	See definitions portion of the Personnel Policy.
5-10 Years of Service	<i>See above</i>	<i>See above</i>
10 Years of Service or More	<i>See above</i>	<i>See above</i>

### Earned Paid Leave

Covered Employees	EPL Accrual and Utilization	Notes
Groups I-III (Full-Time and Part-Time Employees)	Up to 40 hours of accrued vacation, sick, or personal time may be used during the calendar year for any type of time off as needed.	Refer to the Town's established paid leave policies for more information.
Group IV (All temporary, seasonal, and per diem employees)	Entitled to earn one hour of paid leave for every 40 hours worked, up to 40 hours in one year. After 120 days of employment, EPL time may be used in 30-min increments for any reason.	Accrual of this leave begins at the start of employment. Refer to EPL section above for requirements, exclusions, and restrictions.

## Digest of Amendments

**Originally Adopted March 1, 1979**

**Amended**

December 21, 1999

September 18, 2001

December 4, 2001

April 6, 2004

January 6, 2009

February 17, 2009

July 7, 2009

**February 2, 2010**

**Repealed and Replaced including Appendices**

February 21, 2012

February 18, 2020

June 7, 2022

December 20, 2022

May 16, 2023

## **Personnel Policy Acknowledgement**

Name: \_\_\_\_\_

Position: \_\_\_\_\_ Department: \_\_\_\_\_

I acknowledge that I have received a copy of the Town Personnel Policy, and I do commit to read and follow these policies. I am aware that if, at any time, I have questions regarding Town policies I should direct them to my Department Head or Human Resources.

I know that Town policies and other related documents do not form a contract of employment and are not a guarantee by Town of the conditions and benefits that are described within them. Nevertheless, the provisions of such Town policies are incorporated into the acknowledgment, and I agree that I shall abide by its provisions.

I also am aware that Town of Gray, at any time, may on reasonable notice, change, add to, or delete from the provisions of the Town policies for which I will be notified.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

## **Conflict of Interest Disclosure**

Name: \_\_\_\_\_

Position: \_\_\_\_\_ Department: \_\_\_\_\_

*Please identify any relationships, positions, other employment, business interests, or other circumstances that you believe could contribute to a perception of conflict of interest between the Town of Gray and your personal activities, financial or otherwise:*

\_\_\_\_\_ I have no conflict of interest to report.

\_\_\_\_\_ I have the following potential conflict of interest to report (*please specify any personal or family relationships with any Gray employee or paid contractor/vendor working for Gray; other nonprofit and for-profit boards you (and your spouse/partner) sit on; any outside employment other than occasional jobs or 'gigs'; and / or, for-profit businesses for which you or an immediate family member are an officer or director, or a majority shareholder*):

\_\_\_\_\_  
\_\_\_\_\_

I hereby certify that the information set forth above is true and complete to the best of my knowledge.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

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# PERSONNEL POLICY

## Town of Gray

Adopted: February 2, 2010

Amended: February 21, 2012

Amended: February 18, 2020

Amended: June 7, 2022

Amended: December 20, 2022

Amended: May 16, 2023

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Be it hereby resolved by the Town Council of Gray, Maine:

## **Section 1 – Mission Statement**

The Town of Gray (hereafter “Town”) is committed to providing a fair and equitable system of personnel administration. By supporting our employees, we can ensure that they are able to provide the highest quality services to our residents. ~~As an Equal Opportunity Employer, the Town employs and promotes employees based on merit and without discrimination as to race, color, age, sex (including pregnancy, sexual orientation, or gender identity), physical or mental disability, religion, ancestry, national origin, familial status, or genetic information.~~

The Personnel Policy that follows is designed to facilitate the efficient administration of Town business while promoting and maintaining equal employment conditions for all Town employees. Positions have been classified, where necessary, to clarify policies which apply strictly to employees with similar duties, authority, compensation, or responsibilities. This policy is adaptive in nature and may be amended to meet the Town's future needs. This policy shall be applicable to all employees as defined within and is not a contract of employment.

## **Section 2 – Definitions**

- 1) Appointing Authority: The Town Manager or the Town Council.
- 2) Employee: Denotes any person hired to a position by the Town Manager.
- 3) Regular, Full-Time: Employees ~~who are not in a temporary, per diem or probationary status and~~ who are regularly scheduled to work the Town’s full-time schedule are, generally, eligible for the Town’s benefit package, subject to the terms, conditions and limitations of each benefit program. ~~Reference Appendix for Employer / Employee Contributions.~~
- 4) Regular, Part-Time: Employees ~~who are not assigned to a temporary, per diem or probationary status and~~ who are regularly scheduled to work less than a full-time schedule, but no less than 20 hours per week. These employees receive all legally mandated benefits and are eligible for the Town’s benefit package at full cost to the employee subject to the terms, conditions and limitations of each benefit program. ~~Reference Appendix for Employer / Employee Contributions.~~ If hours worked during a pay period drop under 20 hours per week, no vacation or sick time will be accrued for that pay period.
- 5) ~~Probationary: Employees whose performance is being evaluated to determine whether further employment in a specific position or with the Town is appropriate. Employees who satisfactorily complete the probationary period will be notified of their new employment classifications.~~
- 6) Temporary: Employees who may or may not work a specified number of hours per week but who is employed on a short-term basis at the discretion of the Town, usually for a specified term or project or are employed as part of seasonal operations, ~~and whose employment will normally end at the conclusion of those seasonal operations during any given year.~~

Employment beyond any initially stated period does not; in any way imply a change in employment status. ~~Temporary employees retain their status until they are legally notified of a change. A change to or from this category can be accomplished only with the written consent of the Town Manager.~~ Although temporary employees receive legally mandated benefits they are ineligible for the Town's benefit package.

- 7) Per-diem: Employees who ~~routinely work either a full-time or a part-time schedule and who~~ accept additional compensation in lieu of participation in all but legally-mandated benefits. The Town offers this category in limited classifications and to a limited number of employees, such as Rescue EMTs. Service in this category cannot be credited in any way toward any benefit program, even if the employee is later assigned to a benefit-eligible classification. ~~A change to or from this classification can be accomplished only with the written consent of the Town Manager.~~
- ~~8) FLSA: Fair Labor Standards Act.~~
- ~~9) Legally Mandated Benefits: Social Security and Workers Compensation Insurance.~~
- 10) Full-Time Schedule: For the purposes of determining benefits eligibility, a full-time schedule means a minimum of thirty-five (35) hours per week, based on a calendar year.
- 11) Good Standing: Employees who are not the subject of disciplinary action by the Town are considered in good standing.
- 12) Immediate Family: Includes parents, spouse/domestic partner, brother, sister, children (including step-children), grandparents, mother-in-law, father-in-law, sister-in-law, brother-in-law.
- 13) Hire Date: The date ~~when an individual is notified of their employment with the Town of Gray. This date is not to be confused or used synonymously with an employee's start date which effects their benefit eligibility date.~~
- ~~14) Start Date: The date on which an employee actually commences work for the Town of Gray. This date is used to determine an employee's benefit eligibility date as applicable.~~

### **Section 3 – Administration**

As the Town Council-appointed administrative head of the Town, the Town Manager is the Administrator of the Personnel Policy. It is their duty to:

- a) Encourage and exercise leadership in the development of sound personnel practices among the departments of the Town;
- b) Advise the Gray Town Council regarding manpower needs and utilization;
- c) Foster and develop programs for the improvement of employee effectiveness including training, safety, health, counseling and courtesy when dealing with the public and respectfulness of municipal property;

- d) Establish and maintain records of all Town employees in the public service, setting forth as to each employee: classification, title, salary or status, sick time, vacation time and any other relevant data;
- e) Ensure that at least one bulletin board shall be set up within easy access to each employee for the purpose of required Department of Labor posters, advertising job position openings, public notices, departmental regulations, etc.;
- f) Apply and perform any act, which may be necessary or desirable to carry out the purposes and provisions of the Personnel Policy.

The Town Manager designates the Human Resources Director to assist in the duties outlined above. The Human Resources Director should be considered a first point of contact for employees and external parties on personnel-related matters.

## **Section 4 – Employment**

### **A. Applications**

- ~~1) Original hires to positions in Groups I, II, III and IV shall be announced by posting notices in the Town Office, Post Office and such other places within the Town as may be deemed appropriate by the Town Manager, including at least one newspaper of general circulation. The Town Manager shall have final hiring authority on all municipal hires.~~
- 2) ~~Applications shall be made on forms provided by the Town. Such forms shall require information covering training, experience and other pertinent information. All applicants must sign their application forms.~~ Any misrepresentations, falsifications or material omissions may result in an applicant's exclusion, or, if the person has been hired, termination.
- ~~3) Preference may be given to qualified applicants who are residents of the Town. Preference will not be given based on political affiliation.~~
- 4) Vacancies ~~in positions above the entrance level~~ shall be filled by promotion whenever, in the judgment of the Town Manager, it is in the best interests of the Town to do so. ~~In the case of promotion, appropriate consideration shall be given to the applicant's qualifications, record of performance or seniority.~~
- 5) The Town is an Equal Opportunity Employer and is committed to complying fully with all state and federal employment laws, including, but not limited to, the Americans with Disabilities Act (ADA), the Americans with Disabilities Amendments Act (ADAA), the Pregnant Workers Fairness Act (PWFA), and the Maine Human Rights Act.
- ~~6) The Town complies with the Immigration Reform and Control Act of 1986. Each new employee must complete Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility~~

~~the original to be kept on file with the Human Resources Department.~~

- 7) The Town will check references and needed licensure of qualified job applicants
- 8) An offer of employment is conditional on the following where applicable: a medical examination, a psychological evaluation, a criminal background check, a drug and alcohol test and a driving record. It is the practice of the Town of Gray to initiate at least a criminal background check for all prospective employees, as well as necessary independent contractors and volunteers to ensure the welfare and safety of the citizens in the Town of Gray.

## **B. Classifications**

The Town Manager shall develop and recommend a classification plan for all positions in Groups I, II, III and IV. The classification plan shall consist of job descriptions specifying title, typical duties and responsibilities. The Town Manager shall assign the position a salary or wage range in accordance with the adopted pay schedule.

Before the classification plan, or any part thereof, shall become effective, it shall be approved, by order from the Gray Town Council.

The Town has established four (4) employment classifications.

- a) Group I: All full-time, salaried ~~exempt~~ employees.
- b) Group II: All full-time, hourly paid employees
- c) Group III: All regular part time employees.
- d) Group IV: ~~All probationary~~, temporary, casual and per-diem employees. (~~This category does not include full-time hires in probationary status.~~)

## **C. Probation**

~~The probationary period is intended to give a new employee the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The Town uses this period of time to evaluate an employee's capabilities, work habits, and overall performance. Either the employee or the Town may end the employment relationship at will, during the probationary period, with or without cause or advance notice.~~

All new or rehired employees shall work on a probationary basis for the first six months from their date of hire or a time as established in writing by the Town Manager. Probationary basis shall be consistent with regulations as established by the FLSA.

During the initial probationary period, new employees are eligible for legally-mandated benefits. New employees shall not be eligible for health care benefits until the first day of the month following the first thirty (30) days of employment after their start date. New employees shall be eligible for other benefit programs at full cost to the employee. (A list of Town-offered optional benefits is available in Appendix ~~E~~) ~~Upon satisfactory~~

~~completion of the initial probationary period, employees enter the established classifications.~~

An employee who is promoted or transferred within the Town may be required to complete a secondary probationary period with each reassignment to a new position. ~~Any significant absence will automatically extend a probationary period by the length of the absence.~~

~~In cases of promotions or transfers within the Town, an employee who, in the sole judgment of management, is not successful in the new position can be removed from that position at any time during the secondary probationary period.~~ If this occurs, the employee may be allowed to return to their former position or to a comparable position for which the employee is qualified, depending on the availability of such positions and the Town's needs.

~~Employment status is not changed until the end of the secondary probationary period that results from a promotion or transfer within the Town.~~

#### **D. Conduct**

All employees of the Town are expected to follow rules of conduct that will protect the interest and safety of all employees and the Town. Situations or conduct which would reflect negatively or bring discredit upon the Town are also unacceptable. It is not possible to list all forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions that may result in disciplinary action, up to and including termination of employment:

- a) Theft or inappropriate removal or possession of property;
- b) Falsification of time-keeping records;
- c) Working under the influence of alcohol or illegal drugs;
- d) Possession, distribution, sale, transfer or use of alcohol or illegal drugs in the workplace while on duty or while operating employer-owned vehicles and equipment;
- e) Fighting or threatening in the workplace;
- f) Boisterous or disruptive activity in the workplace;
- g) Negligence or improper conduct leading to damage of employer-owned or customer-owned property;
- h) Insubordination or other disrespectful conduct;
- i) Violation of safety or health rules;
- j) Smoking in prohibited areas;
- k) Sexual or other unlawful or unwelcome harassment;
- l) Possession of dangerous or unauthorized materials such as explosives/firearms in the workplace;
- m) Excessive absenteeism or any absence without notice;
- n) Unauthorized absence from the work station during the workday;
- o) Unauthorized use of Town owned equipment;
- p) Illegal or inappropriate activity engaged in while using Town-owned vehicles and equipment, including, but not limited to violation of federal/state law or

local ordinance, including those governing cell phone usage and text messaging regulations.

- q) Violation of the Personnel Policy;
- r) Unsatisfactory performance or conduct.

(This list is not intended to be exclusive.)

## **E. Professional Dress Standards**

Appropriate professional attire ensures a safe, distraction-free work environment. Town of Gray employees, including volunteers, interns, and any other individual who would represent the Town, are expected to dress appropriately, and present a professional image while at work.

### *Professional Attire*

Professional attire is expected of all employees consistent with the work location and the nature of work. Employees are asked to use good judgment and present themselves at all times in a manner that best represents the Town. Inappropriate attire includes clothing that is too tight or revealing; clothing with rips, tears, holes, or frays; or any extreme style or fashion in dress, footwear, accessories, fragrances, or hair. Basic elements for appropriate attire include clothing that is in neat and clean condition.

Examples of appropriate Town Hall office and Gray Public Library attire include:

- Shirts: Shirts with collars, professional or business casual blouses or tops. Examples of inappropriate shirts include T-shirts, shirts with inappropriate slogans, tank tops, muscle shirts, camouflage, and crop tops.
- Pants: Dress slacks, trousers, and denim. Examples of inappropriate pants include shorts, camouflage, and pants worn below the waist or hip line.
- Shoes: Dress shoes, loafers, dress sandals. Examples of inappropriate footwear include flip-flops and construction or hunting boots.

Departments may elect to establish different standards based on job roles, safety / OSHA requirements, and level of interaction (or lack thereof) with members of the public. Departments with specific uniform practices in place should refer directly to department guidelines.

### *ID Badges*

Employees visiting or working in Town Hall and the Library must wear their Town-issued ID badge and display the badge where it can be easily read. Picture IDs should be clear and unmarked.

### *Procedures*

Department heads or those with supervising responsibilities are accountable for supporting and enforcing dress and appearance standards in their areas of

responsibility. This includes coaching employees whose appearance is inappropriate. Employees who do not meet a professional standard may be sent home to change, and nonexempt employees will not be paid for that time. Repeated violations will lead to disciplinary action as determined by the Personnel Policy. Questions about procedures should be referred to Human Resources or the Town Manager.

#### *Accommodations*

Exceptions and reasonable accommodations will be made as needed. For instance, managers may make appropriate exceptions for special occasions or in the case of inclement weather, at which time employees will be notified in advance. An employee who is unsure of what is appropriate should check with his or her department head.

Additionally, the Town of Gray respects the religious beliefs of its employees and will make, upon request, an accommodation in terms of workplace attire when accommodation is available and does not create an undue hardship or safety issue for the Town. Requests for religious accommodation should be made in writing to the Town Manager.

### **F. Electronic Communications Policy**

~~See Appendix for current policy.~~

### **G. ~~Telephone and~~ Personal Cell Phone Usage**

Staff are expected to avoid making or receiving personal calls during work hours. Urgent calls to/from family members can be made/received and should be brief. Employees are expected to exercise the same discretion in using personal cell phones.

Employees contacted by creditors or collection agencies should immediately inform the caller of this policy and end the call. The employee should inform the agency in writing advising them not to contact them at work. Creditors failing to honor such a request can be reported to the Federal Trade Commission at [www.ftc.gov](http://www.ftc.gov).

### **H. Smoking**

Smoking is not allowed in any workplace. It is the policy of the Town to comply with all applicable federal/state laws, and local ordinance regarding no smoking in the workplace and in public places.

Excerpt from the Town of Gray “No Tobacco, Alcohol or Medical Marijuana Use” Ordinance:

“No person(s) shall use or partake of any form of tobacco, alcohol or medical marijuana on/in Town of Gray property, 365 days a year, 24 hours a day. There will be no designated areas to use or partake of any form of the same on/in Town of Gray property. No litter associated with tobacco, alcohol or medical marijuana may be discarded on/in Town of Gray property.”

## **I. Drug Free Workplace Act**

Under the Drug-Free Workplace Act, any employee who performs work for a government contract or grant must notify the Town of a criminal conviction for drug-related activity occurring in the workplace. Employees concerned with substance dependency and abuse issues are encouraged to discuss these matters with their supervisor or the Town Manager.

## **J. Drugs**

No employee may use, possess, distribute, sell or be under the influence of drugs while on the job or representing the Town. Prescription drugs may be used only if they do not impair the employee's job performance. Violations will result in disciplinary action, which may include termination.

## **K. Alcohol**

No employee may use, possess, distribute, sell or be under the influence of alcohol while on the job and / or representing the Town at official Town proceedings or at Town-hosted events, except those related to Town Council approved economic development campaigns as described in [Section 6.F](#). Violations will result in disciplinary action, which may include termination.

## **L. Personnel Files**

The Town maintains a personnel file for each employee. Personnel files are confidential and are the property of the Town. Personnel files are kept locked and secured in the Human Resources office. A personnel file may include items such as hiring data, applications, resumes, reference letters, signed job descriptions, change of status forms, performance reviews, letters of recognition, corrective actions, and exit interview information. Other documents such as medical information and Workers' Compensation information are part of the employee personnel file but, because of the confidential nature of this information, are kept in a secure location separate from the personnel file.

Requests for this information are subject to the following requirements and procedures:

- 1) Employee Requests - Pursuant to 26 M.R.S.A § 631, an employee is permitted to review and copy the employee's personnel file upon written request. This right additionally applies to a former employee or a duly authorized representative of the employee or former employee. File review and copying must take place at the location where the personnel files are maintained, during normal office hours unless, at the Human Resource Director's discretion, a more convenient time and location for the employee is arranged. Employees are entitled to one free copy of their personnel file per calendar year upon written request.
- 2) Verification of Employment - Prospective employers, financial institutions, and residential property managers may request information on a former or current employee's work history and salary. All such requests should be referred to

Human Resources. Responses to written requests for verification of employment will be made on the form provided only when the request is accompanied by a former or current employee's signed authorization to release such information. A written verification of employment form that has been completed by Human Resources will be returned directly to the requesting party. Telephone requests for verification of employment by prospective employers, financial institutions, and residential property managers will be limited to confirming information stated by the external party.

#### **M. Evaluations/Reviews**

~~Supervisors and employees are strongly encouraged to discuss job performance, goals and professionalism. Formal~~ Written Performance Evaluations are to be completed every twelve months, ~~on or about the anniversary of the date of hire.~~ Employee evaluations shall be signed by the employee, Department Head and Town Manager. An employee may attach a written statement within ten (10) calendar days after any evaluation given to be included in their personnel file.

#### **N. Outside Employment**

A Town employee may engage in outside employment. However, no employees may engage in outside employment which in any manner interferes with the proper and effective performance of the duties of their position, results in a conflict of interest, or if it is reasonable to anticipate that such employment may subject the Town to public criticism or embarrassment. Employees must inform their Department Head who shall inform the Town Manager of their outside employment. If the Town Manager determines that such outside employment is disadvantageous to the Town, they shall notify the employee in writing that the outside employment must be terminated. Any employee who engages in employment outside their regular working hours shall be subject to perform their regular duties first.

#### **O. Vital Information**

In order to comply with federal and state regulations as well as for insurance and payroll purposes, employees must notify the Human Resources Director, in writing, of any of the following changes:

- a. Address and/or telephone number
- b. Change in marital status
- c. Change in dependent status
- d. Legal change in name or citizenship status
- e. Additional or relevant education or skills acquired since date of
- f. employment
- g. Person to be notified in case of emergency
- h. Change in military status or reserve requirements

#### **P. Conflict of Interest**

No employee of the Town shall have any financial interest in or profit from any contract, purchase, sale or work performed by the Town unless otherwise provided for

by the Town Council. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or immediate family as listed in the definitions portion of this Policy. Actual conflicts of interest, as well as incidents or situations which create the appearance of a conflict, must be avoided.

- 1) Employment - The Town discourages the employment of individuals to work in a direct or indirect line of supervision with an employee who is a member of the individual's immediate family. The Town prohibits officers or employees of the Town from using their official position to advance, advocate, hire, or promote the employment of their immediate family in any position. Employees must disclose to the Town Manager any employment relationship that may be a conflict of interest.
- 2) Purchasing - No Town employee who is authorized to make purchases shall have any interest, either directly or indirectly in any contract with the Town. No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if employees have any influence or transactions involving purchases, contracts or leases, it is imperative that they disclose this, as soon as possible, to an officer of the Town, the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.
- 3) Gratuities - Compensation paid to the employee in accordance with the Pay Schedule, and reasonable expenses as approved by the Town Manager, shall constitute the sole remuneration for services rendered by an employee in the discharge of Town duties. No additional reward, gift or other form of remuneration shall be accepted by any employee for the discharge of their Town duties. Acceptance of nominal gifts, such as food and refreshments in the ordinary course of business, or unsolicited advertising or promotional materials such as pens, note pads, calendars, etc., is permitted.

Personal gains may result not only in cases where an employee or relative has a significant ownership in a firm with which the Town does business, but also when an employee or relative receives any "kickbacks", bribes, substantial gifts or special consideration, as a result of any transaction or business dealings involving the Town.

#### **Q. Confidentiality**

During the course of their duties, employees of the Town are often privy to information about individuals, which is sensitive and should be kept confidential. Examples include, but are not limited to, labor relations, General Assistance and personnel actions. Employees are expected to respect the confidential nature of such information. Violations will result in disciplinary action, which may include termination.

## R. Diversity, Equity, and Inclusion

The Town of Gray is ~~an Equal Opportunity Employer~~ committed to maintaining a safe and productive workplace for all employees, job applicants, and contractors. ~~Our commitment is reflected in employment practices that promote diversity, equity, and inclusion for Town staff and Town representatives, including contracted service providers.~~

We embrace and encourage celebration of ~~our employees' differences in age, color, ethnicity, family or marital status, gender identity or expression, language, national origin, physical and mental ability, political affiliation, race, religion, sexual orientation, socio-economic status, veteran status, and other characteristics that make our employees unique.~~

All representatives of The Town of Gray have a responsibility to always treat others with dignity and respect.

~~All~~ employees are expected to exhibit conduct that reflects inclusion during work, at work functions on or off the work site, in their professional correspondence and social media interactions, and at all other Town-sponsored and participative events. Any employee found to have exhibited any inappropriate conduct or behavior against others may be subject to disciplinary action.

~~Employees who believe they have been subjected to any kind of discrimination that conflicts with the Town's diversity policy and initiatives should seek assistance from a supervisor, an HR representative, or the Town Manager.~~

## **Section 5 – Hours of Work**

The hours of work (starting times, quitting times, lunch times and overtime) will be established within each department subject to the Town Manager's approval.

The hours of work may be changed by mutual agreement of the Department Head and the department employees, subject to Town Manager's written approval.

### A. Overtime

Any time actually worked in excess of 40 hours in one work week shall be compensated by overtime pay at a rate of time and one-half, with the exception of employees in Group I. ~~For those employees in Group I, it is understood that compensation is based on the job responsibility; and the person filling the position will be expected to accomplish the work assigned to the position regardless of hours required.~~ For the purposes of overtime calculation, holiday and vacation time will be considered time actually worked, with the exception of floating holidays. Public Works and Maintenance employees will be paid overtime for time worked after their normal daily scheduled hours.

~~In accordance with FLSA, temporary summer Recreation employees are exempt from overtime.~~

In accordance with FLSA, ~~Law Enforcement and~~ Fire Protection Employees are entitled to overtime if they work in excess of 212 hours in a consecutive twenty-eight (28) day period.

Fire Protection personnel include firefighters, paramedics, emergency medical technicians, rescue workers, ambulance personnel, or hazardous materials workers who:

1. are trained in fire suppression;
2. have the legal authority and responsibility to engage in fire suppression;
3. are employed by a fire department of a municipality, county, fire district, or State; and
4. are engaged in the prevention, control and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

## **B. Compensatory Time**

Compensatory time is paid time that is earned and accrued by an employee in lieu of immediate cash payment for working overtime hours. Accrual of compensatory time in hours will equal 1.5 the overtime hours worked to correctly compensate the employee in regular hours. (see example below)

- a. Overtime hours worked 2.5 hours = 2.5 hours multiplied by 1.5= 3.75 compensatory time hours.

All compensatory time accrued must be used within six months of their accrual date. At such a time, expired compensatory time will be paid out at the current rate of pay for the employee in the regular hours as calculated, as the regular hours have already been calculated at the required 1.5 rate.

Unless otherwise indicated in writing, each employee will be paid for the overtime hours worked during the normal payroll process. Each Department Head may determine whether the needs of their department are better served by allowing compensatory time to accrue for their employees in lieu of immediate cash payment for overtime hours worked. An employee may submit a written request to their Department Head for accrual of compensatory time in lieu of immediate cash payment for working overtime hours in advance of the hours worked, which will be subject to the Department Head's advance approval.

## **C. Absences**

In the event of an absence ~~due to illness or other personal cause~~, it is the responsibility of employees to notify their Department Head directly of the absence, as early as possible, but no later than fifteen (15) minutes after their scheduled starting time. ~~If the Department Head is unavailable the employee should contact the Town Manager's Office. A signed Absence request form must be submitted to the Human Resources Department within three working days for Payroll purposes if utilizing eligible time.~~ Absenteesim and excessive tardiness may lead to disciplinary action and/or possible termination.

~~A completed Absence request form must be submitted by the employee to their Department Head to request utilization of eligible time available. Scheduled Absence requests must be submitted with sufficient time in advance of the requested time off. The Department Head will process an Absence request within a reasonable amount of time (not to exceed five business days unless otherwise indicated to the employee in writing within that time frame). Department Head approval of such requests should cause a minimum loss of service to the public and is subject to approval by the Town Manager. Department Head requests shall be submitted to the Town Manager.~~

#### **D. Call-In**

Except as otherwise provided by law, any employee in Group II who is subject to being called in to work during their normal off-duty hours shall be paid a minimum of three (3) hours ~~pay for each such call-in. Should they be required to work less than two (2) of the three (3) hours, three (3) hours will be the maximum paid in lieu of overtime compensation. Should they be required to work more than two (2) of the three (3) hours, overtime pay will be calculated on actual time worked.~~

#### **E. Emergencies**

Emergencies requiring the closure of any of the Town's facilities will be announced on local radio and television stations. ~~Employees should be notified no later than one hour prior to the normal opening of the Town's affected public facilities.~~ Employees who scheduled to work will be paid their normally-scheduled hours during official closures. Emergency ~~and essential~~ staff may be asked to work during official closures and will receive regular pay.

### **Section 6 – Compensation**

#### **A. Pay Schedule**

The Town Manager shall prepare a pay ~~schedule~~ for all ~~of the positions in the Town.~~ ~~The pay schedule shall reflect fairly the difference in duties and~~ responsibilities and shall be related to compensation for comparable positions in other public and private employment.

~~The Town Manager shall submit the pay schedule to the Gray Town Council in the form of a resolution. The Council may adopt the pay schedule with or without amendment. Thereafter, no position shall be assigned a salary higher than the maximum provided for the position unless the pay schedule is amended in the same manner as herein provided for its adoption.~~

~~Any pay schedule amendments of position or re-assignment requests shall be brought to the attention of the Town Manager by the Department Heads. Changes will be made by the Town Manager in writing and will be based on employee merit.~~

## **B. Pay Dates**

All employees are paid bi-weekly. If payday falls on a regularly scheduled holiday, employees will receive pay on the last day of work before the regularly scheduled payday. ~~To receive pay before a scheduled vacation or to have pay direct deposited to bank accounts, employees must submit a written request to the Finance Department. Any questions concerning payroll deductions may be addressed to the Finance Department.~~

## **C. Positions Changes**

When an individual position is changed by reorganization, creation of a new position, or a change in duties and responsibilities, ~~revisions of the pay schedule~~ or possible job classification changes are necessary and the Town Manager shall recommend the necessary revisions to the Town Council for their approval.

When a regular employee is out for an extended period of time due to illness or injury, the Department Head must review the vacancy to determine if the operations can continue without the position being filled temporarily. The written analysis must include the cost benefits of using existing personnel, including any overtime incurred, versus the promotion or hiring to fill the vacancy. If it is determined that the position must be filled during this period the following shall apply:

- 1) Promotions: In those cases where a regular part-time employee is temporarily promoted to fill the full-time vacancy, the person promoted shall be entitled to receive, all benefits provided to that position as indicated in the positions job classification. The time served in the temporary position shall count towards their second probationary period (as referenced under Section 4-C). Should the individual be returned to their regular part-time status, they shall be entitled to receive all benefits provided to that position as indicated in the positions job classification.
- 2) Hire: If a new person is hired temporarily to fill the full-time vacancy they shall only be entitled to the legally mandated benefits and holiday pay. If they are hired to the position as a full-time employee, then the time worked shall count towards their initial probationary period.

## **D. Cost of Living Adjustment (COLA) / Merit Raises**

Any salary or wage adjustment based on COLA will commence on July 1, of each respective year.

Merit raises will be based on an employee's annual performance evaluation. Merit raises will be awarded as determined in writing by the Town Manager.

## **E. Fire / Rescue Per-Call Stipend**

Fire and Rescue per-call "time" is not included in actual time calculations and is not included in overtime calculations.

## **F. Travel Expenses**

### **1. Local Travel Expenses**

Employees required to drive personal vehicles for approved municipal purposes shall be reimbursed by the Town at the current federal mileage rate. Other approved expenses will also be reimbursed using a prorated Federal per-diem rate.

- a) Requests for local travel reimbursement must be approved by the employee's Department Head or the Town Manager, and must be accompanied by itemized receipts or submission of a travel expense form claiming prorated Federal per-diem reimbursement.
- b) Authorization for personal car use by employees for routine Town business will be at the discretion of the Town Manager. All employees must show proof of insurance and a valid driver's license.
- c) Authorization for personal car use by employees for a specific purpose and approved, in writing, in advance by the Town Manager.
- d) Reimbursement for authorized personal car use shall be at a rate as determined by the Town Council, which will be no less than the Federal mileage rate.
- e) All vehicle travel mileage outside of Gray shall be calculated from City Hall, 24 Main Street, Gray, ME, and mileage calculations shall be documented by the employee and submitted along with the reimbursement request, unless otherwise stipulated in advance by the Department Head or Town Manager.
- f) When two or more persons travel together on official authorized trips, costs shall be paid to one employee based on the total mileage involved.
- g) Employees are prohibited from purchasing alcohol or intoxicants using Town funds.
- h) Travel expense reimbursements related to grant funded activities shall comply with the reporting requirements of the funder.

### **2. Overnight Travel Expenses**

Employees are occasionally required to travel overnight and/or out of town for meetings, events, and professional training and certification purposes.

- a. Out-of-town travel expenses for employees must be authorized by the Town Manager or their designee, in writing, in advance of the use for which reimbursement is sought.
- b. Travel expenses will be reimbursed using either a submission of

itemized travel expense receipts or an employee may elect to receive the Federal per-diem rate for lodging and meal expenses.

- c. All vehicle travel mileage outside of Gray shall be calculated from City Hall, 24 Main Street, Gray, ME, unless otherwise stipulated in advance by the Department Head or Town Manager. Mileage calculations shall be documented by the employee and submitted along with the reimbursement request.
- d. It is understood that travel to conferences and training events may require lodging at rates that exceed the Federal per-diem rate. Employees should make the best effort to balance travel goals, personal safety, and the cost of lodging, and submit documentation of the lodging expense and the Federal per-diem rate with their request to the Town Manager to deviate from the per-diem rate.
- e. Employees electing to use the Federal per-diem meal expense rate may request an advance on their expense report to help cover travel costs.
- f. Employees shall pro-rate total daily meal expenses by one third (1/3) for meals that are covered by the registration for an event, and for meals occurring before or after partial travel days, unless they receive written permission to deviate from this policy.
- g. Employees are prohibited from purchasing alcohol or intoxicants using Town funds.
- h. Travel expense reimbursements related to grant funded activities shall comply with the reporting requirements of the funder.

### 3. Managerial Authority

Town Department Heads will include anticipated professional development and training travel expenses for department staff in their annual budget proposal, including the purpose of the travel, a list of those travelling, the duration of travel, the estimated cost, and the source of funding. The Town Manager will review annual budget proposals before submitting them to the Town Council.

The Town Manager will include their own anticipated professional development and training expenses in their annual administrative budget proposal, including the purpose of the travel, the duration of travel, the estimated cost, and the source of funding. The travel schedule will be reviewed by Town Council as part of the Town's annual budget development.

Other training sessions and opportunities to participate in professional conferences may arise during the year. Whenever possible, these costs shall be reviewed and approved in advance by the Town Council. Whenever timing for

such travel does not allow for Council review, the Town Manager will notify the Town Council Chair in advance of the proposed travel. The Town Department Heads will submit any unanticipated travel costs and time for review under this process, provided the cost is within their department budget.

The Town Manager will submit their own unanticipated travel costs and time for review under this process, prior to travel.

Town staff may participate in community economic development activities that require use of Town funds for outreach events, meetings with prospective developers and business representatives, and campaigns to develop strategic business relationships.

- a. Expenses for community economic development campaigns must be authorized by the Town Council, in writing, in advance of the use for which reimbursement is sought.
- b. Community economic development travel and expenses should follow the Town's local and overnight travel policies.
- c. The Town Council has discretion in pre-approving use of Town funds for Community economic development purposes, including use for travel, lodging, meals, alcohol, and entertainment. Notwithstanding other provisions of this policy, the Town Council has the sole discretion to approve the reimbursement of expenses for economic development activities that may include the purchase of alcohol provided that the Council determines such activities were conducted in a responsible and safe manner that does not present a risk to the Town or its staff.

## **G. Outside Compensation**

Any employees receiving payment for services, from non-Town sources, rendered during their normal workday and for which work day Town compensation was given, shall turn the entire amount of that compensation over to the Town Treasurer. This provision does not apply to activities outside the workday or during periods of vacation.

## **Section 7 – Benefits**

### **A. Social Security**

The Town participates, jointly, with employees in Social Security payments. This is a federally mandated benefit and is dependent on current Federal Government standard reimbursements.

### **B. Health ~~and Major Medical~~ Insurance**

Employees in Groups I, II and III are eligible to participate in a Town-sponsored group health insurance plan, which includes hospitalization and Major Medical. The Town will contribute toward coverage for employees in Groups I, II and III as determined

annually by the Municipal Budget. When employment ceases, the Town will terminate payment of this benefit and COBRA will be offered as mandated by federal law. COBRA is to be administered by the insurance company if possible. New employees shall not be eligible for health care benefits until the first day of the month following the first thirty (30) days of employment after their **start** date in their newly eligible status.

### **C. Life Insurance**

Employees in Groups I, II and III may be eligible for Life Insurance at a rate of 1 times their annual salary. The Town will pay toward coverage for employees in Groups I, II and III as determined by the Town Council (according to the most updated Appendix).

### **D. Town Offered Optional Benefits**

Employees in Groups I, II and III may be eligible for other optional benefits at full cost to the employee. A list of Town offered optional benefits is available in the Appendix.

### **E. Retirement**

Employees in Groups I, II, and III are eligible to participate in the Town-established retirement plan. ~~For Groups I and II, the Town will match up to an amount as determined by the Town Council (according to the most updated Appendix), should an employee elect to participate. All~~ new employees shall not be eligible for retirement benefits for the first sixty (60) days of employment.

### **F. Sick Time**

The Town has established a sick time benefit to ensure that employees have a financial resource during periods of illness. The Town does not view sick time as additional vacation or personal time to be utilized at the will of the employee. Sick time shall be used during periods of actual illness or at the written discretion of the Town Manager. Sick time may be utilized to care for an employee's immediate family as listed in the definitions portion of this Policy. The Town also recognizes employees' ability to use time consistent with Maine's Earned Paid Leave Law.

Employees in Groups I & II shall be entitled to one (1) day of sick time for each month while employed by the Town. For accrual purposes, one (1) sick day shall equal eight (8) work hours. They shall accrue 3.692 hours per bi-weekly pay period.

Employees in Group III shall earn sick time at an hourly rate of .04615 hours for every hour worked. This accrual rate is determined as follows:

$$3.692 \text{ hours per bi-weekly pay period} / 80 \text{ hours per pay period} = .04615 \text{ per hour}$$

For example, an employ working 20 hours per week (40 hours bi-weekly) would accrue 1.846 sick hours per pay period (40 x .04615 = 1.846).

For the purposes of sick accrual calculations, holiday and vacation time will be considered time actually worked. Sick time, personal time, discretionary time, FMLA

and bereavement time will not be considered time actually worked. In the event an employee needs leave due to personal illness or to care for an immediate family member and the employee has exhausted all sick time accruals, the employee may be paid for up to 8 hours of leave by borrowing against future sick time accruals upon prior approval by the Town Manager. Following such an occurrence, the employee shall not be entitled to be paid through sick time accrual until his/her/their accruals have been restored to a positive balance. If an employee leaves employment with the Town for any reason, the Town shall deduct any negative balance of sick time accrual from the employee's accrued vacation payout or final paycheck. This provision is intended to address the use of paid sick leave only, and shall not impact the employee's rights under Maine or federal family medical leave laws.

The Town Manager may require a physician's certificate as a condition of an employee's utilization of sick time. Employees, who utilize three or more days of sick time consecutively, may be required to furnish a physician's certificate, explaining the employee's condition in direct relation to their ability to perform their job responsibilities in accordance with their job description. Persons drawing workers' compensation or absent on an FMLA absence will not accrue sick time.

All unauthorized use of sick time shall be considered as an unauthorized absence from work and as unpaid time. Unauthorized use of sick time shall be considered an action subject to discipline.

#### *Accrual Cap*

Accrual of sick time will not exceed 960 hours. Employees who have an excess of this cap as of January 1, 2023 will maintain their sick time hours until such time as the accrued hours may fall below 960 hours, at which time the cap will be in force.

#### *Payout for Accumulated Sick Time*

As of October 1, 2022, employees in Groups I & II, having achieved at least ten (10) years of service to the Town of Gray will be entitled upon separation to pay equal to one half of that employee's accumulated sick time, not to exceed three hundred and sixty (360) hours.

As of October 1, 2022, employees in Groups I & II having achieved at least five (5) years of service will be entitled upon separation to pay equal to one half of that employee's accumulated sick time, up to two hundred (200) hours.

As of October 1, 2022, payout is not available to employees in Groups I & II having achieved less than five (5) years of service.

An employee who is not in good standing upon separation from employment for any reason will receive no payout of accumulated sick time.

## G. Personal Time

Any employee in Groups I or II will receive an annual personal time allocation of 16 hours. Personal time does not accrue year to year and is not subject to payout upon separation.

Whenever possible, personal time must be requested and approved in advance by the employee's work manager / Department Head. The Town also recognizes employees' ability to use time consistent with Maine's Earned Paid Leave Law.

## H. Vacation Time

Employees in Groups I & II shall be entitled to two (2) weeks (80 hours) of vacation time each year. Employees with five years of service and department heads shall be entitled to three (3) weeks (120 hours) of vacation time each year. Employees with ten (10) years of service shall be entitled to four (4) weeks (160 hours) of paid vacation time each year. For accrual purposes, one (1) vacation day shall equal eight (8) work hours. Vacation time shall be accrued to each eligible employee during each pay period at the following rates:

- a. Under five years of service-3.08 hours;
- b. Five-ten years of service-4.62 hours;
- c. Ten years of service and after-6.16 hours.

Employees in Group III shall earn vacation time at an hourly rate of .0385 hours for every hour worked. This accrual rate is determined as follows:

$$3.08 \text{ hours per bi-weekly pay period} / 80 \text{ hours per pay period} = .0385 \text{ per hour}$$

For example, an employ working 20 hours per week (40 hours bi-weekly) would accrue 1.54 vacation hours per pay period ( $40 \times .0385 = 1.54$ ).

Whenever possible, vacation time must be requested and approved in advance by the employee's work manager / Department Head. The Town also recognizes employees' ability to use time consistent with Maine's Earned Paid Leave Law.

Vacation time is not intended to be cumulative. Vacation time will cease accruing at the employee's individual limit as determined by their year's of service and their employment classification. Exceptions may be made at the written discretion of the Town Manager.

Exceptions may be made at the discretion of the Town Manager; provided however, with respect to the Town Manager's own annual time, they must, each year, advise the Town Council of the status of their annual time and, if applicable, request written permission from the Town Council to carry the same forward to the next year. Copies of the Town Manager's status report on their own annual time and the Town Councils written response shall be placed in the Town Manager's personnel file. Town employees and the Town Manager must take extended time within 180 days of the year earned.

## **I. Discretionary Time**

Additional time off with pay may be granted in writing to any employee by the Town Manager at their discretion. Such time must be used within one (1) calendar year and is not payable to the employee upon separation from employment in good standing.

## **J. Bereavement Time**

Special time with pay shall be granted to employees in Groups I, II & III for up to three (3) days for absence caused by the death of a member of the immediate family, as listed in the definitions portion of this Policy.

## **K. Leave of Absence**

Other than FMLA, a leave of absence without compensation shall not exceed a length as determined in writing by the Town Manager and shall be based on the employee's past work performance.

A person on a leave of absence without pay shall not be entitled to holiday, sick or vacation pay. The Town Manager may permit holiday, sick and vacation pay on notice if extenuating circumstances exist and the leave of absence is less than thirty (30) days.

## **L. Military Service Leave**

Employees in Groups I & II who are members of the organized military reserves and who are required to perform field service will be granted Military Service Leave in addition to the vacation leave, but not to exceed two (2) weeks in any calendar year. For any such periods of Military Service Leave, excluding weekend duty, the Town will pay the employee the balance between base pay and the employee's regular daily compensation; the total equaling their regular pay. The employee shall furnish the Human Resources Department with an official statement from military authorities indicating their rank, pay and allowances.

## **M. Holidays**

Paid holidays for employees in Groups I & II and III shall be as follows:

New Year's Day	Labor Day
Martin Luther King Jr. Day	Indigenous Peoples' Day
Presidents' Day	Veterans Day Thanksgiving Day
Patriots' Day Memorial Day	The Day after Thanksgiving
Juneteenth	Half Day before Christmas
Independence Day	Christmas Day
<del>New Year's Day</del>	<del>Labor Day</del>

Employees in Groups I, II shall be compensated for their normal regularly scheduled working hours on the date of the holiday or its observance date (as described below (a)). If a holiday falls on a date that is not a normal regularly scheduled working day for any

employee in Groups I & II, the holiday shall be accrued as floating holiday time to be used within 6 months following the date of the accrual. If a holiday falls on a date that is not a normal regularly scheduled working day for any employee in Group III, the holiday shall be accrued as floating holiday time at a rate of one-half the average daily schedule for the employee, as worked for the previous three months, to be used within 6 months following the date of the accrual. Floating holiday time is not intended to be cumulative and is not included in overtime calculations.

The Department Head may request payment through payroll for employees for holiday hours which would normally be accrued as floating holiday(s) if the accrual of such floating holiday(s) will cause a loss of service to the public or potentially interfere with the productivity of a department. All such requests are subject to the written approval of the Town Manager. Floating holiday time paid instead of accrued is not included in overtime calculations.

- a. When a holiday falls on a Sunday, the following Monday shall be observed for all employees who are not regularly scheduled for Sunday. When a holiday falls on a Saturday, the preceding Friday shall be observed for all employees who are not regularly scheduled for Saturday.
- b. Because of the nature of the position, certain employees in Groups II & III may be required to work during a holiday. Should this occur, hourly paid employees will be paid time and a half for the hours worked on the holiday for all holidays except Thanksgiving and Christmas, for which they will be paid holiday pay plus two times their hourly rate for hours worked on the holidays.
- c. There is one standard exception to the holiday schedule. The Transfer Station will be closed on Easter Sunday and open on Patriots' Day without holiday compensation being paid for hours worked on Patriots' Day. Other exceptions to the holiday schedule may be necessary when considering the dates of the holiday (or their observance date) and the needs of the Town, or by a written request of the Department Head to the Town Manager. Any such exception(s) is/are subject to the approval of the Town Manager and must be determined with sufficient advance time to notify the public.

## **N. Jury Duty**

A Town employee called for jury duty will receive his or her regular pay check. They are required to forward any payments received for their jury duty service to the Human Resources Department with the exception of mileage reimbursement. This procedure will compensate employees for any difference in pay. Employees excused from jury duty must report back to work if it is during their normal working hours.

## **O. Family Medical Leave Act**

See Appendix for details.

## P. Earned Paid Leave

See Appendix for details.

## Q. Remote Work

~~The purpose of this policy is to define the Town of Gray's rules for remote working or teleworking (i.e., when employees work any hours from a location other than Town facilities). The Town of Gray recognizes that, in some cases, telework arrangements can provide a mutually beneficial option for both the Town and its employees. This policy is intended to set expectations and ensure that work goals can be met, and it may be altered at any time as needed.~~

### *Eligibility*

The Town Manager will determine which positions are most suitable for remote work, depending on the Town's needs and the position's responsibilities.

~~Not all jobs can be performed from off-site locations. In general, positions requiring face-to-face interaction with customers and office personnel are not suitable for telecommuting arrangements.~~

~~While employees and work managers have the freedom to develop arrangements tailored to employee and departmental needs, the following basic requirements must be met:~~

- ~~• Employees must be able to carry out the same duties, assignments, and other work obligations at their remote workspace (or home office) as they do when working on Town premises. At a minimum, employees should maintain a remote workspace where they can attend remote meetings, participate in phone calls, and conduct their work assignments comfortably and without interruption.~~
- ~~• The IT Systems Administrator must confirm the suitability of workspace equipment, such as hardware, software, anti-virus protection, phone/fax, and Internet/data lines.~~
- ~~• Candidates for temporary telecommuting arrangements must demonstrate good time management and organizational skills, and be self-motivated, self-reliant, and disciplined.~~

To request a remote work arrangement, employees must submit their request in writing to their supervisor. This request must outline a proposed work schedule, specific deliverables, and procedures to ensure continuity of business.

~~Eligibility determinations will be made thoughtfully and reviewed with the employee for any changes or updates at least annually.~~

All remote work must receive prior approval, and a Remote Work agreement prepared by Human Resources must be signed by the employee, department head, and Town Manager. ~~Evaluation of remote employees' performance will focus as much on work output and completion of objectives as time-based performance. Employees and department heads should meet frequently to discuss progress and results.~~

The Town Manager reserves the right to revoke the eligibility of an employee for remote work at his/her discretion. Notice of revocation will be given as far in advance as possible, but shall not be required.

### *Hours and Availability*

Positions working remotely will be provided with the number of hours they are expected to work on site and/or remotely. The workweek should approximately mirror normal business hours on Town premises.

- ~~Employees must be readily available to their work managers and co-workers during core work hours. There are two core periods each day. The first runs from 9:30 a.m. to 11 a.m. and the second from 1:30 p.m. to 3 p.m.~~
- ~~Employees must be available to attend scheduled meetings and participate in other required office activities at the remote workspace as needed. Except for extraordinary circumstances, the Town normally provides at least 24 hours' notice for such events.~~
- ~~Employees must arrange for flextime and/or other accommodations for childcare during their work hours as part of maintaining an uninterrupted remote workspace, particularly during core hours.~~

Employees will report their hours and activities to their supervisor.

- ~~Those who are classified as non-exempt (Groups II-IV) must record all hours worked on a Time Card worksheet and provide this information to their supervisor. Time Card worksheets should be submitted on a weekly basis on Fridays by 12:00 p.m.~~
- ~~Non-exempt employees who need to work outside of scheduled work hours will seek approval from their supervisor whenever possible, and will report any overtime to their supervisor and the Human Resources Director.~~

### *Workspace & Equipment*

~~The employee will establish an appropriate work environment within his or her remote workspace for work purposes.~~

- ~~Employees should seek a quiet and distraction-free working space, to the extent that such a space is possible.~~
- ~~Employees are expected to maintain their workspace in a safe manner, free from safety hazards.~~
- ~~Employees are required to notify the Town of any illness or injury incurred in the course and scope of performing work remotely.~~

As a general rule, the Town of Gray will not be responsible for costs associated with the setup of the employee's remote workspace, ~~such as remodeling, furniture, or lighting, nor for repairs or modifications to the remote workspace.~~ However, if an employee is in need of a reasonable accommodation in accordance with the Americans with Disabilities Act (ADA), an employee may submit such a request to Human Resources and such requests will be considered to the extent that a reasonable accommodation exists and would not create an undue hardship on the Town of Gray.

~~The Town of Gray will determine the equipment needs for each employee on a case-by-case basis. If the Town provides equipment used for remote work, it is to be used for Town business purposes only. Employees must keep it safe and avoid any misuse.~~

Consistent with the Town's expectations of information security for employees working at the office, employees working remotely will be expected to ensure the protection of proprietary Town and citizen information accessible from their remote workspace.

~~Specifically, employees must:~~

- ~~• Keep their equipment password-protected.~~
- ~~• Store equipment in a safe and clean space when not in use.~~
- ~~• Follow all data encryption, protection standards, and settings.~~
- ~~• Refrain from downloading suspicious, unauthorized, or illegal software.~~
- ~~• The Town discourages the use of an employee's home workspace for the conduct of in-person meetings or for visitation by coworkers or the public in connection with work being conducted remotely and shall not be liable for any damage or injury sustained by any person other than the employee authorized to work in such remote workspace.~~

### *Town Records*

During remote work, employees shall be required to maintain all work product and records in a manner consistent with the Town's standard recordkeeping practices and in full compliance with the Maine Freedom of Access Act and Record Retention Rules established by the Maine State Archivist. Employees shall not delete or destroy any records that are otherwise required to be maintained by the Town per these laws and rules. It shall be the responsibility of the employee to ensure that he/she can satisfy these recordkeeping requirements while working remotely.

### *Meeting Etiquette*

~~While distractions are often unavoidable, employees should strive to keep them to a minimum.~~

- ~~• No music or television in the background is permitted during meetings.~~
- ~~• Employees should remain muted during video or audio conferencing unless the employee is speaking.~~
- ~~• Turning on video is encouraged but not required.~~
- ~~• Employees should avoid eating food during a virtual meeting unless invited to do so by the meeting host.~~
- ~~• Smoking or vaping is not permitted during a video conference.~~
- ~~• Casual dress is acceptable; however, use discretion. Loungewear, pajamas, or other apparel considered inappropriate in a professional work setting are not permitted while an employee is working remotely.~~
- ~~• Avoid multi-tasking. Employees are expected to give their full attention to meetings as if the meetings were held in person.~~

## **R. Emergency Telework**

In the event of an emergency such as a weather disaster or pandemic, the Town Manager may allow or require certain employees to temporarily work from home to ensure business continuity.

- These employees will be advised of such work requirements by the Town Manager or the employee's department head.
- These employees are required to follow the guidelines provided in the Remote Work Policy.

Preparations should be made by employees and department heads well in advance to allow remote work in emergency circumstances. The Communications & Information Department is available to review equipment needs and to provide support to employees in advance of emergency telework situations.

## **Section 8 – Resignations**

An employee may resign from Town employment in good standing. Good standing ~~(as defined in the definitions section of this policy)~~ shall, in this instance, require the submittal of a written notice fourteen (14) working days in advance of the last day of work. Failure to comply with this rule may be cause for denying future employment with the Town and disqualify the employee from any payments that may have been issued to them for a resignation in good standing. The Town Manager may shorten the period of notice for extenuating circumstances.

## **Section 9 – Disciplinary Procedures**

### **A. Just Cause**

The Town shall base disciplinary actions or measure on a "just cause" basis.

### **B. Disciplinary Actions**

~~The appointing authority shall have the right to impose disciplinary action, on any employee whose work performance or conduct, in the judgment of the appointing authority, justifies such action.~~

~~The steps of disciplinary action are as follows:~~

- 1) ~~First written~~ warning
- 2) ~~Second~~-written warning
- 3) Suspension ~~(as defined below in C.)~~
- 4) Termination

~~All warnings must clearly~~ identify each issue of discipline, as well as the appropriate corrective measures to be taken by the employee (including their time frame for completion) in order for the ~~appointing authority~~ to consider each issue as resolved.

~~There are certain types of employee problems that are serious enough to justify immediate suspension or termination. Notice of such action against an employee must be in writing and filed with the employee not later than the effective date of action. Such notice shall specify the penalty and contain a statement of the reason or reasons therefore. The employee shall have the right of appeal, as outlined in the grievance procedure.~~

### **C. Suspension**

~~As step 4 (four) in the disciplinary action process, suspension of any employee's employment may be done in writing at the discretion of the appointing authority, with special consideration to the following written conditions:~~

- 1) Suspension with or without pay;
- 2) Specific time frame;
- 3) Conditions for reinstatement.

### **~~D. Discharged Without Just Cause~~**

~~If it is determined that an employee has been discharged without just cause, he or she shall be reinstated to his or her former position with full pay for all time lost. In the event that a Department Head wants to discharge an employee, the action shall first be approved by the Town Manager.~~

### **E. Employee Termination**

~~Employment may be terminated for the following reasons:~~

- 1) Resignation ~~-voluntary employment termination initiated by an employee;~~
- 2) ~~Discharge -involuntary employment termination initiated by the Town;~~
- 3) Layoff ~~-involuntary employment termination initiated by the Town for non-disciplinary reasons or~~
- 4) Retirement ~~-voluntary employment termination initiated by the employee-meeting age, length of service and any other criteria for retirement from the Town.~~

At the time of termination an exit interview may be scheduled. Employees will receive final pay in accordance with State law at the next regularly scheduled pay date.

Town Property: Employees must return all property belonging to the Town at the time of their termination or upon immediate request.

## **Section 10 – Grievance Procedure**

Grievances are limited to written disputes, claims or complaints of ~~those issues which are related to aspects of the employer-employee relationship between the employee and the Town. The grievance in writing must include the following:~~

- A clear and concise statement of the facts giving rise to the grievance, including date, time and place of the alleged incident, if any, relating to the grievance, and

- characterizing each particular act or omission;
- A copy of any documents relating to the grievance (if any); and
- A statement setting forth the remedy sought.

~~To resolve the grievance the following course of action should be taken consecutively:~~

- ~~1) The grievance shall be filed in writing with the Department Head within five (5) working days of the alleged incident, particular act or omission. The Department Head shall issue a written decision within five (5) working days from the date received.~~
  - ~~a. If the grievance arises from an alleged incident, particular act or omission on the part of the Department Head, the grievance shall be filed with the Town Manager within five (5) working days of the alleged incident, particular act or omission.~~
- 2) The individual may appeal the decision of the Department Head to the Town Manager within five (5) work days of the date of receipt of the Department Head's decision. The Town Manager shall issue a written decision within five (5) working days from the date the appeal is received. The Town Manager's decision shall be final.
  - b. If the grievance arises from an alleged incident, particular act or omission on the part of the Town Manager, other than a decision of the Town Manager on appeal of a grievance or disciplinary action, the grievance shall be filed with the Town Council within ten (10) working days of the alleged incident, particular act or omission. The Town Council will hold a hearing, within fifteen (15) working days, in regard to said grievance and issue a decision. The decision of the Town Council shall be final.

## **Section 11 – Harassment**

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. All employees must avoid offensive and inappropriate or harassing behavior at work and are responsible for assuring that the workplace is free from hostile behavior at all times.

This policy refers not only to supervisor-subordinate actions but also 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.

### **A. Sexual Harassment**

Sexual harassment is the attempt to control, influence or affect the career, salary, or job of an individual in exchange for sexual favors. Sexual harassment can also be conducted which creates a hostile or offensive work environment or unreasonably interferes with a person's ability to perform their job. Sexual harassment is an

extremely serious matter. It is prohibited in the workplace by a person and in any form.

- 1) Specific conduct which is prohibited includes, but is not limited to:
  - a) Threats or insinuations, implicit, that any employee's refusal to submit to sexual advances will adversely affect the employee's retention, evaluation, wages, promotion, duties or any other condition of employment;
  - b) Unwelcome sexual flirtations, advances, or propositions;
  - c) Verbal or written abuse of a sexual nature;
  - d) Graphic verbal comments about an individual's body;
  - e) Sexually degrading words used to describe an individual, or
  - f) The display in the workplace of sexually suggestive objects, comments or pictures.

Any Department Head or employee who is found after appropriate investigation to have engaged in sexual harassment will be subject to discipline, up to and including ~~discharge~~.

## **B. Harassment**

Derogatory or vulgar comments or actions regarding a person's sex, sexual orientation, religion, age, ethnic origins, race, physical appearance, or the distribution of written or graphic materials having such an effect, are prohibited. Any employee who believes he/she has been the subject of such harassment should report the alleged conduct to their Department Head or the Town Manager. Any ~~Department Head or~~ employee who is found, after appropriate investigation, to have engaged in any harassment will be subject to discipline, including ~~discharge~~.

## **C. Reporting a Complaint**

Any employee who believes he/she has been the subject of harassment should report all alleged acts to their Department Head or the Town Manager. ~~If the complaint involves an employee's direct supervisor or if the employee feels uncomfortable with reporting the matter to their direct supervisor, the complaint should be brought to the attention of the Town Manager and/or Human Resources Director.~~ If the complaint concerns the Town Manager then the employee should bring the matter to the attention of the Town Council Chairperson.

## **D. State Law**

Effective October 19, 1991, the Maine Legislature passed a new law regarding Sexual Harassment in the Workplace. In compliance with this law, the Town is also required to provide annual written notification to all employees regarding sexual harassment. The Town is also required to provide training to all new employees on sexual

harassment before their first anniversary of employment. In addition, new supervisors must receive information on their responsibility to take immediate and corrective action in addressing sexual harassment complaints.

## **Section 12 – Political and Outside Activities**

Except as otherwise provided by law, no person who is an employee of the Town shall be eligible to hold any elective office in the Town government.

While in the employ of the Town, an employee shall not:

- 1) engage in political activity while on duty;
- 2) use the influence of his or her employment capacity for or against any candidate for any county, state, federal, or Town elective office (i.e., Town Council or School Board); or
- 3) use Town facilities, equipment, materials, or supplies to communicate, organize, assist, or advocate for or against any candidate for any county, state, federal, or Town elective office, or for or against a political cause, regardless of whether he or she is on or off duty.

For purposes of this Section 12, political activity means to advocate expressly for or against any candidate for any county, state, federal, or Town elective office; to circulate nomination papers, petitions, or campaign literature for any county, state, federal, or Town elective office; to advocate expressly for or against a political cause; and/or to knowingly give, solicit, accept, or receive a political contribute for any candidate for any county state, federal, or Town elective office or for a political cause.

This provision is not to be construed to prevent Town employees from carrying out the duties and responsibilities of an employee's position; from becoming, or continuing to be, members of any political organization; from attending political organization meetings; from donating personal time, service, or resources to a political cause or candidate for any office; from expressing their views on political matters; or from voting with complete freedom in any election.

The Town Manager shall endeavor to keep all municipal properties free of political or campaign literature and materials.

## **Section 13 – Safety**

The Town of Gray recognizes that an organized and systematic loss control program is important to our operational and administrative systems. The safety and health of employees and of the public and the protection from loss of the Town's physical facilities is both a moral and legal obligation.

It is intended that the Town of Gray will undertake initiatives to maintain safe and healthful working conditions and facilities, develop safe operating procedures, and utilize its financial and personnel resources to achieve a loss free environment of our employee for our employees and for the public.

The responsibility for this undertaking is shared by the Manager, Supervisors and employees. Oversight of the loss control/safety program will be done by a Committee of various employees

as approved by the Town Manager. However, all employees must work cooperatively to ensure that workplace safety is a matter of continual concern, equal in importance to all other operation considerations.

The Town requires all employees to complete mandatory safety training that complies with Federal (OSHA), State and local requirements. Each Department Head is required to ensure the proper training for each of their employees. Written proof, signed by the employee and Department Head/Certified Training Authority or a valid certificate of course completion, shall be required for all training, and will be added to each employee's personnel file. Employees are expected to abide by all safety rules and regulations, which shall be posted on bulletin boards, announced at staff meetings, or otherwise communicated by the Town. An employee's failure to comply may result in disciplinary action and/or termination.

### **A. Workers' Compensation**

The Town participates in a federally mandated Workers' Compensation program. The following actions are required by all employees:

- 1) All injuries to personnel, no matter how minor, during the work schedule will be reported immediately to the Department Head or Human Resources, but in no event later than 60 days after the date of injury. Maine law requires the Town to file a First Report of Injury with the Workers' Compensation Board within seven (7) days of receiving notice of an injury. A copy of the report will be provided to the employee and added to the employee's confidential personnel file as well as the annual OSHA Form 300 file maintained by Human Resources.
- 2) An employee suffering an on-the-job injury will be sent to the Town-specified doctor for examination at the Town's expense.
- 3) The employee will receive their normal pay for that day and, if eligible, will be entitled to utilize sick, vacation or personal time respectively for any regularly-scheduled time missed between the incident and the date that workers' compensation benefits may begin.

### **B. Infectious Disease**

See Appendix for the Infectious Disease Policy.

### **C. OSHA Form 300**

OSHA Form 300 is a form to record all reportable injuries and illnesses that occur in the workplace. An annual log is completed for each Town work site by Department Heads/staff assigned by Human Resources. The summary form must be posted in the workplace from February 1 to April 30 of the year following the year covered by the form at each work site. Human Resources maintains all logs and summaries for submission to OSHA. OSHA Form 300 logs and summaries are kept for five years. For more information, please visit the Occupational Safety and Health Administration website at [www.osha.gov/recordkeeping](http://www.osha.gov/recordkeeping).

## **D. Return to Work**

The Town of Gray is concerned about the health and well-being of its employees. We are committed to working with our employees and their healthcare providers to find work designed to assist injured workers in transitioning back to the workplace by performing meaningful work within their capabilities.

### *Process*

The Town may require written documentation from a licensed physician describing the limitations, progress, and physical abilities of the employee, subject to the limitations of applicable state and federal law.

To accommodate temporary work restrictions, there must be a reasonable expectation that the employee will be able to resume full duties within/or by 30 calendar days (subject to available work that will be beneficial to the employer). Work consistent with temporary work restrictions may be assigned to the employee for up to 30 calendar days (or until the employee is capable of returning to full duty, whichever occurs first). In the event that a modified duty assignment becomes available, the employee is expected to accept the assignment.

The employee is expected to be an active participant in this process by providing M1 Practitioner's Reports (a Workers' Compensation Board form completed by the physician) following medical appointments and communicating changes in their restrictions. The employee and employer commits to following restrictions as outlined in the M1 Practitioner's Reports or otherwise agreed upon.

### *Note*

This policy recognizes the Family Medical Leave Act, the Town of Gray Personnel Policy, along with Standard Operating Procedures (SOPs) that the department may have. It is intended to work in conjunction with them.

Modified work is not intended to be used as permanent reasonable accommodation under the Americans with Disabilities Act. Provided, however, that in the event an employee requires a temporary work restriction or accommodation beyond 30 calendar days, the Town will evaluate such needs pursuant to applicable state and federal law, including, but not limited to, the Americans with Disabilities Act as amended.

No temporary work assignment described or covered under this guideline is intended or offered as a permanent assignment.

## **Section 14 – Severability**

If any provision of this Personnel Policy to any person or a circumstance(s) is held invalid, this invalidity does not affect other provisions or applications of the Personnel Policy which can be given effect without the invalid provision or application. For this purpose, the Personnel Policy is severable.

## **APPENDIX A - FAMILY MEDICAL LEAVE ACT**

*This appendix contains information from the U.S. Department of Labor. For the most current information, please visit [www.dol.gov/agencies/whd/fmla/law](http://www.dol.gov/agencies/whd/fmla/law)*

The **Family & Medical Leave Act** (29 U.S.C. § 2601 et seq.) is a federal law guaranteeing unpaid time off for employees to deal with family and personal matters. In 2008, the FMLA was amended, through the National Defense Authorization Act of 2008 (PL 110-181), to provide new leave entitlements related to military service. In addition, comprehensive new regulations promulgated by the U.S. Department of Labor (DOL) in November, 2008 have clarified and revised some FMLA requirements, effective January 16, 2009.

**“Traditional” Non-Military FMLA Leave.** The law requires covered employers to grant up to **12 workweeks** of unpaid leave in a 12-month period to eligible employees for the following reasons:

- 1) the birth and care of the employee’s newborn child;
- 2) placement of a child with the employee for adoption or foster care;
- 3) to care for the employee’s spouse, son, daughter or parent, (but not parent-in-law) with a serious health condition; or
- 4) for the employee’s own serious health condition that makes him/her unable to perform the functions of his/her position.

“*Serious health condition*” is defined in detail in DOL regulations. See 2008 regulations [29 C.F.R. §§ 825.113; 825.115](#). “*Son or daughter*” means a biological, adopted, or foster child, stepchild, legal ward or in a loco parentis relationship who is either under age 18, or over 18 and incapable of self care due to a physical or mental disability. See 2008 regulation [29 C.F.R. § 825.122](#) for more details.

**Military FMLA Leave.** Two new leave entitlements were provided in 2008 to deal with military family leave issues.

(1) **Military Caregiver Leave.** Eligible employees may take up to **26 workweeks** of unpaid leave within a 12-month period for the purpose of caring for a “covered servicemember.” The employee must meet the basic FMLA eligibility requirements discussed below and must also be the spouse, son, daughter, parent or “next of kin” of a covered servicemember.

- “*Next of kin,*” for the purposes of Military Caregiver leave, is the nearest blood relative of that individual other than the servicemember’s spouse, parent, son or daughter according to list of priorities in the regulations at [29 C.F.R. § 825.127](#).
- “*Covered servicemember*” means a current member of the Armed Forces, including the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. The term “*serious injury or illness*” is defined (**only** for the purpose of deciding who is a “covered servicemember”), as an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform his/her military duties. See 2008 regulation [29 C.F.R. § 825.127](#).
- Unlike other FMLA leaves, Military Caregiver leave starts on the first day leave is taken and ends 12 calendar months from that date, regardless of the usual method the employer uses to calculate the 12 month period for other FMLA leaves. See discussion below.
- An employee is limited to a combined total of 26 workweeks of FMLA leave in one 12-month period, which includes all FMLA leave taken for any reason.

- An employee may take additional 26-week Military Caregiver leaves for a different service member or to care for the same servicemember with a subsequent injury or illness, provided that no more than 26 weeks of leave may be taken in one 12-month period.
- The Military Caregiver Leave entitlement became effective immediately upon passage on January 28, 2008.

(2) **Qualified Exigency Leave.** Eligible employees may take up to **12 workweeks** of unpaid FMLA leave in a 12-month period because of a “qualifying exigency” arising out of the fact that the employee’s spouse, son, daughter or parent is a “covered military member” who is on active duty, or call to active duty status, in support of a contingency operation.

- A “*qualified exigency*” is defined in the regulations to include a number of broad categories for which leave may be used. These include:

- o Short-notice deployment (used up to 7 days from notification date);
- o Military events and related activities;
- o Childcare and school activities;
- o Financial and legal arrangements;
- o Counseling (other than with a medical provider);
- o Rest and recuperation leave of up to 5 days;
- o Post-deployment activities (may be used up to 90 days from termination of active duty status); and
- o Additional activities not part of the categories listed above, but agreed to by employer and employee.

Additional detail and examples of each of the types of qualifying exigency are provided in the 2008 regulations at [29 C.F.R. § 825.126](#) and in the U.S. DOL [Fact Sheet on Military FMLA Leave](#).

- “*Covered military member*” as used for Exigency Leave is *not* the same as the term “covered servicemember” as used for Military Caregiver Leave. A “covered military member” includes members of the National Guard, the Reserve, or certain retired members of the Regular Armed Forces or retired Reserve. The Exigency Leave entitlement was **not** extended to family members of members of the Regular Armed Forces. In addition, the call to duty must be a federal call to active duty. State calls to active duty are not covered unless under certain orders of the United States President as listed in the regulations. See 2008 regulation [29 C.F.R. § 825.126\(b\)](#) for more detail. 29 C.F.R. § 825.126(b)

- An employer may request copies of the military member’s orders or other documentation from the military, and may request that the employee provide certification of the exigency. The DOL has created a form ([Form WH-384](#)) that employers may use for this purpose. Also see 2008 regulation [29 C.F.R. § 825.309](#) for more information. 29 C.F.R. § 825.309

### **Employee Eligibility:**

In order to be eligible for any type of FMLA leave, an employee must work for a covered employer and meet the following criteria:

- The employee must have worked for the employer for at least 12 months (in total, and not consecutively). According to the 2008 FMLA regulations, employers do not need to count breaks in service of more than 7 years. Several exceptions to the 7 year limit are listed in 2008 regulation [29 C.F.R. § 825.110\(b\)](#);
- The employee must have worked at least 1,250 hours over the 12-month period immediately preceding commencement of the leave;
- The employee must work at a job site at which there are at least 50 employees or at least 50

employees must work within 75 miles of the work site.

All “public agencies” are covered employers under the federal FMLA. 29 C.F.R. § 825.108. This includes federal and state governments, municipalities, or government agencies. *Id.* However, even though a municipality is a “covered employer” under the FMLA, it may not be required to provide FMLA leave to its employees because the municipality may have no “eligible” employees. As noted above, in order to be eligible for FMLA leave, an employee must work at a worksite where there are at least 50 employees, or at least 50 employees must work within 75 miles of the employee’s worksite. Thus, in practice, a municipality must have at least 50 employees (within a 75-mile area) before it will be required to grant leave under the federal FMLA. See 2008 regulation [29 C.F.R. § 825.108\(d\)](#).

*Determining number of employees employed:* Before deciding if the 50-employee threshold has been met, one must determine which entity is the “public agency” or municipal employer. Generally, a municipality is considered a single employer for purposes of determining employee eligibility. See [29 C.F.R. § 825.108\(c\)](#). Often questions arise as to whether the “municipality” includes school, sewer, water or other municipal functions, or whether these are separate employers for purposes of the FMLA. DOL regulations indicate that this determination should be made on a case by case basis and that the U.S. Bureau of Census, *Census of Governments* may be used as one guiding factor on this issue. See [29 C.F.R. § 825.108\(c\)](#) and [www.census.gov/govs](http://www.census.gov/govs). Once the bounds of the municipal employer are determined, one must then determine how many “employees” that employer employs. The FMLA uses the same definition of “employee” used in the Fair Labor Standards Act. ([29 U.S.C. § 203](#)). Because there are numerous exceptions and qualifications applicable to the determination of the municipal employer and number of employees, municipalities are strongly encouraged to seek legal advice in determining if the 50-employee threshold has been met.

### **Counting the 12-month leave period:**

The law requires employers to provide 12 workweeks of leave within a “12-month period” for all types of FMLA leave except Military Caregiver leave. Employers may choose among 4 methods to calculate the 12-month leave period provided the method chosen is applied consistently and uniformly to all employees. See [29 C.F.R. § 825.200](#). These are:

- (1) a calendar year;
- (2) any fixed 12-month year, such as a fiscal year, or a year beginning on the employee’s anniversary date;
- (3) a 12-month period measured forward from the date any employee’s first FMLA leave begins; or
- (4) a rolling 12-month period measured backward from the date an employee uses FMLA leave.

Municipal employers that have eligible employees (i.e., over 50 employees within a 75-mile radius) are encouraged to adopt a policy that notifies employees of the method the employer has chosen to measure the 12-month period. If the employer does not designate a method of calculating the leave year in advance, the employer must allow employees to use whatever counting method that would be most beneficial to the employee. [29 C.F.R. § 825.200](#). When implementing (or changing) a method of calculating the leave year, the employer must give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. *Id.*

## **Certification:**

Employers may require that employees provide certification of the need for leave under the Military Exigency leave entitlement. The DOL has issued a form that may be used to certify this exigency. See [Certification of Qualifying Exigency for Military Family Leave \(Form WH-384\)](#).

Employers may require medical certification of the need for leave when leave is requested to care for the employee's family member, a covered servicemember or for the employee's own serious health condition. Generally, the employee must be allowed at least 15 days to obtain the certification. The DOL has published three new forms that may be used to obtain medical certification Individual forms were created to certify:

- (1) the employee's own serious health condition ([Form WH-380-E](#));
- (2) a family member's serious health condition ([Form WH-380-F](#));
- (3) and a covered service member's serious injury or illness ([Form-385](#)).

Second or third medical opinions are potentially available at employer expense. See the DOL's [Compliance Guide](#) for more information concerning medical certification and 2008 regulations at [29 C.F.R. § 825.305 – 825.313](#).

Recertification of the need for leave may be required generally no more often than every 30 days and only in connection with an absence. Additional guidelines and restrictions, including those relating to recertification of intermittent leave, are outlined in the regulations at [29 C.F.R. § 825.308](#) and [825.305](#).

*Fitness for Duty.* Pursuant to a uniformly applied policy, an employer may ask for medical certification of fitness to return to work upon completion of approved leave for the employee's own serious health condition. Any such inquiries must be consistently applied, and must be sought only in regard to the particular health condition that caused the need for leave. Under the 2008 FMLA regulations, an employer may require that the certification address the employee's ability to perform the essential functions of the job, *if* the employer provided a list of these essential functions no later than the time it provided the [Designation Notice \(Form WH-382\)](#) to the employee. In addition, the Designation Notice must have indicated that the Fitness for Duty Certification would be required to address these functions. No second or third opinions on a Fitness for Duty certification are allowed, although an employer may ask for clarification of the certification within specific limits in the regulations. See 2008 regulation, [29 C.F.R. § 825.312](#). For more information concerning certification requirements, see 2008 regulations at [29 C.F.R. §§ 825.305 – 825.313](#).

## **Intermittent Leave:**

If medically necessary, intermittent leave or a reduced work schedule must be allowed under the federal FMLA to care for a child, parent, or spouse or for the employee's own serious health condition. Intermittent leave may also be used to care for a covered servicemember with a serious injury or illness. In addition, only the amount of leave actually used while on an intermittent/reduced leave schedule may be charged against the employee's leave entitlement. Employers may not require an employee to use more time than necessary and must account for the intermittent leave, using the smallest time segments available in their timekeeping system (which must be an hour or less). Intermittent leave for the birth or placement of a child is only available with consent of the employer. See [29 C.F.R. § 825.202 - 825.205](#).

## Employer Notice Requirements:

- o All covered employers must post the DOL's **FMLA Poster/General Notice** ([Form WH-1420](#)) in a conspicuous location even if the employer has no eligible employees. (Note: the DOL has issued a new poster in conjunction with its 2008 regulations).
- o Employers with any eligible employees *must* provide the same information contained in the FMLA Poster/General Notice in any handbooks and/or any written policy materials. If the employer does not maintain policy manuals or written policy materials, the employer must provide general information on FMLA rights to new employees at the time of hire. Electronic distribution of the notice is allowed, if certain conditions are met. See new regulation [29 C.F.R. § 825.300](#).
- o Within five business days after a leave request is received, or the employer has been made aware of the employee's need for leave, the employer must give the employee a notice concerning his/her basic eligibility for leave (e.g. whether the employee has worked for the employer for 12 months, 1,250 hours and/or whether the 50 employee threshold has been met). At the same time, the employer must also furnish a notice outlining the employee's rights and responsibilities relating to FMLA leave. The notice must indicate any requirement to provide certification of the need for leave, whether military or non-military. Specific information which must be included in the notices includes: requirements relating to substitution of paid leave, key employee status, requirements for periodic reports, benefit premium payments, and several other items listed in new regulations at [29 C.F.R. § 825.300\(b\)](#). The notice of eligibility may be verbal or in writing. The DOL has created a sample form entitled,

**Notice of Eligibility & Rights and Responsibilities** ([Form WH-381](#)) which satisfies this employer obligation.

- Within five business days after the employer gains enough information to make a determination as to whether the requested leave qualifies as FMLA leave (e.g. medical certification has been received), the employer must provide a "**Designation Notice**" to the employee. The Designation Notice notifies the employee whether the leave will be designated as FMLA leave and counted against the employee's leave entitlement. If the employer plans to require a fitness for duty certification upon return to work, and/or if the employer will require that the certification address the essential functions of the employee's job, these requirements must be included in the Designation Notice, along with a list of those essential functions. A sample **Designation Notice** ([Form WH-382](#)) has been prepared by the DOL. See 2008 regulations, [29 C.F.R. § 825.301](#) for more details on Designation Notice requirements.
- The employer must notify the employee of the amount of leave counted against the employee's FMLA leave entitlement. If the amount of leave is known at the time the employer designates the leave as FMLA-qualifying, the employer must notify the employee of the number of hours, days, or weeks that will be counted against the employee's FMLA leave entitlement in the Designation Notice. If it is not possible to provide the information with the Designation Notice, the employer must provide notice of the amount of leave counted against the employee's FMLA leave entitlement upon the request by the employee, but no more often than once in a 30-day period and only if leave was taken in that period. The notice may be oral or in writing, but if oral notice is given, it must be confirmed in writing no later than the following payday. The written notice

may be in any form, including a notation on the employee's pay stub. See 2008 regulation 29 C.F.R. § 825.300(d)(6).

### **Employee Notice Obligations:**

Generally, employees must provide at least 30 days notice of the need for leave that is foreseeable. See [29 C.F.R. § 825.302](#) for more detail. For unforeseeable leave, an employee or his/her spokesperson must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. The regulations provide that it generally should be practicable for the employee to provide notice of unforeseeable leave within the time prescribed by the employer's usual and customary notice requirements. See [29 C.F.R. § 825.303](#) for more detail.

### **Preservation of benefits:**

During an approved leave, the employer must maintain the employee's group health insurance on the same terms as if the employee continued to work.

The employer is not required to maintain other non-health insurance benefits (such as life insurance) during the leave. However, the FMLA does require employers to restore an employee returning from approved leave to the same benefits he/she had prior to the leave, with no penalty or waiting periods. Thus, if an employee fails to pay his/her benefit premiums during the leave, an employer may decide to continue such benefits at its own expense during the leave or should make sure that applicable benefit plans allow immediate resumption of benefits. See the [DOL Compliance Guide](#) and 2008 regulation [29 C.F.R. §§ 825.209 – 825.215](#) for more information.

### **Substitution of Paid Leave:**

FMLA leave is generally unpaid leave. However, employees may substitute available paid leave for otherwise unpaid FMLA leave. Employers may also require that an employee use available paid leave. Any paid leave time used by the employee does count toward the employee's FMLA leave entitlement. The 2008 regulations clarify that if an employee wants to substitute paid leave, he/she must comply with the employer's paid leave policies and procedures with respect to use of that paid leave. The employer must notify employees of any additional procedural requirements that apply to the use of paid leave in the **Notice of Rights and Responsibilities** (given to employees when leave is requested). See 2008 regulation [29 C.F.R. § 825.207](#) for more information.

### **Reinstatement:**

Upon return from an approved leave, the employee must be reinstated to the same or an equivalent position, with the same pay, benefits, and other terms and conditions. Certain exceptions apply for "key employees." See DOL [Compliance Guide](#) for more information on key employees.

**Education employees:**

Special rules apply to some employees of local educational agencies, including public elementary and secondary schools. “Instructional employees” are subject to special rules when taking leave (a) more than 5 weeks prior to the end of a term; (b) less than 5 weeks prior to the end of a term; and (c) less than 3 weeks from the end of a term. For more information see: [29 C.F.R. § § 825.600 – 825.604.](#)

**Discrimination:**

An employer may not interfere with, restrain or deny the exercise of FMLA rights. Employees may not be discharged or discriminated against for taking leave. Nor may the use of FMLA leave be used as a negative factor in a “no fault” attendance policy or in any employment action, including hiring, promotion or disciplinary actions. See 2008 regulation, [29 C.F.R. § 825.220.](#)

**Enforcement:**

The FMLA is enforced by the U.S. DOL’s Employment Standards Administration, Wage and Hour Division. The agency investigates complaints of violations, and is authorized to bring action in court to compel compliance. In addition, eligible employees may bring a private lawsuit against an employer for violations. An employee is not required to file a complaint with the Wage and Hour Division prior to bringing such action. See 2008 regulations at [29 C.F.R. § 825.400 – 825.404.](#)

## **APPENDIX B – MAINE FAMILY MEDICAL LEAVE ACT**

*This appendix contains information from the state of Maine. For the most current information, please visit <https://www.mainelegislature.org/legis/statutes/26/title26sec844.html>.*

Maine has enacted its own Family Medical Leave Law (MFMLA) entitling eligible employees of certain employers to 10 workweeks of leave in any two-year period. (26 M.R.S.A. § 843 *et seq.*; PL 2007 c. 233) The MFMLA is modeled after the federal FMLA, but has some important differences. It is very possible that some employees could be covered under either the state or federal FMLA laws, or both. Thus, when presented with a leave request, an employer should analyze the eligibility requirements of each law separately.

### **Covered Employers:**

Maine’s FMLA applies to city, town and municipal agency employers with 25 or more employees. *See* 26 M.R.S.A. § 843(3). The law defines “employee” quite broadly, to include any person “permitted, required or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment.” Employee does not include an independent contractor. 26 M.R.S.A. § 843(1).

### **Employee Eligibility:**

Employee eligibility under the MFMLA differs from the federal FMLA in three important ways:

- In order to be eligible for MFMLA leave, an employee must have worked for the same employer for at least 12 *consecutive* months (under federal law, the 12 month work requirement need not be consecutive).
- An employee must work at a permanent worksite with at least 15 employees.
- Under the MFMLA there is no 1,250 hour work requirement.

Thus, in some situations, an employee may not qualify for federal FMLA leave because the individual has not worked 1,250 hours in the previous year, but the individual may qualify for Maine FMLA leave because he/she has been employed for 12 consecutive months.

### **Leave Entitlement:**

Under the MFMLA, an eligible employee is entitled to up to 10 workweeks of leave in a two-year period for the following reasons. Effective September 20, 2007, the Legislature added “domestic partners” to the entitlement to leave, and added a new entitlement to leave for military deaths/injuries. Effective July 18, 2008, the MFMLA includes a right to leave for the purpose of caring for a sibling. (PL 2007 c. 519).

- (1) the birth of the employee’s child or the employee’s domestic partner’s child;
- (2) placement of a child 16 years of age or less with the employee or with the employee’s domestic partner in connection with the adoption of the child by the employee or the employee’s domestic partner;
- (3) A child, a domestic partner’s child, parent, domestic partner, sibling or spouse with a serious health condition;
- (4) The employee’s own serious health condition;
- (5) The donation of an organ of that employee for a human organ transplant;

(6) The death or serious health condition of the employee's spouse, domestic partner, parent, sibling or child if the spouse, domestic partner, parent, sibling or child as a member of the state military forces, as defined in 37-B M.R.S.A. §102, or the U.S. Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty. PL 2007 c. 388; PL 2007 c. 261.

*Serious health condition* is defined in the law as an illness, injury, impairment or physical or mental condition that involves: (a) inpatient care in a hospital, hospice or residential medical care facility; or (b) continuing treatment by a health care provider. 26 M.R.S.A. § 843(6).

*Domestic partner* is defined as: the partner of an employee who:

- Is a mentally competent adult as is the employee;
  - o Has been legally domiciled with the employee for at least 12 months;
  - o Is not legally married to or legally separated from another individual;
  - o Is the sole partner of the employee and expects to remain so;
  - o Is not a sibling of the employee; and
  - o Is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property. PL 2007 c. 375.

*Sibling* is defined as "a sibling of an employee who is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements."

### **Intermittent Leave:**

In response to a 2006 court decision that held that the MFMLA contained no requirement for intermittent leave, the Maine Legislature amended the law to allow intermittent leave in circumstances similar to the federal law. See *Brown v. Eastern Maine Medical Center*, 2006 U.S. Dist. LEXIS 50593 (D.Me. 2006); PL 2006 c. 233.

Effective September 20, 2007, the MFMLA requires covered employers to provide intermittent leave or a reduced work schedule, if medically necessary, for the employee's serious health condition, a parent, child, domestic partner or spouse with a serious health condition, or for organ donation. Intermittent leave for the birth, adoption or foster care placement of a child is available only by agreement of the employer and employee. PL 2006 c.233.

If intermittent leave is taken, the employer may temporarily transfer the employee to an available alternative position for which the employee is qualified and (1) which has equivalent pay and benefits and (2) better accommodates the intermittent leave schedule. PL 2006 c. 233.

### **Employee Notice/Certification:**

An employee needing leave is required to give at least 30 days prior notice of the intended start and end of leave, unless prevented from giving notice by a medical emergency.

The employee may be required to provide medical certification from a physician to verify the amount of leave needed. Note that the law allows an employee that has "in good faith" relied on treatment by prayer or spiritual means, pursuant to the tenets of a recognized church or

religious denomination, to submit certification from an accredited practitioner of those healing methods. 26 M.R.S.A. § 844(1)(B).

Employers must post a poster concerning MFMLA, available from the Maine DOL.

**Preservation of Benefits:**

An employer must allow an employee on leave to maintain employee benefits at his/her expense. The parties may negotiate to maintain benefits at employer expense.

**Restoration:**

At the conclusion of an approved MFMLA leave, the employer must restore the employee to the same or an equivalent position with same seniority status, benefits, pay and other terms and conditions of employment. There is a limited exception to the employee's right to job restoration, if the employer can prove that the employee was not restored to the same or equivalent position due to conditions unrelated to the employees exercise of leave rights. 26 M.R.S.A. § 845.

**Discrimination:**

The use of leave may not result in the loss of any employee benefits accrued before the leave was taken. Nor may the leave result in loss of seniority or contract rights. In addition, an employer may not interfere with, restrain or deny the exercise of or the attempt to exercise any right provided under the MFMLA. Nor may an employer discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for exercising any right under the Maine FMLA or for opposing any practice made illegal by the MFMLA. 26 M.R.S.A. § 846-7.

## APPENDIX C - ELECTRONIC COMMUNICATION POLICY

~~The Town of Gray (“the Town”), in an age of growing technology and electronic communication, is implementing a policy to clearly define employee expectations and responsibilities.~~

~~“System” means all telephones, computers, facsimile machines, voicemail, e-mail, and other electronic communication, copying or data storage systems or equipment leased, owned or in the possession of the Town, including, but not limited to, any computer, computer system, or any storage device or medium that the Town provides to an employee or that is physically or electronically connected to any other part of the System. “Electronic Communication” means all electronic communications, data, software, files, and other information created, modified, located upon, received or transmitted by, or stored upon, any part of the System, including, but not limited to e-mail, voicemail, and Internet usage.~~

~~All parts of the System are owned by the Town and/or are provided solely for use in the Town’s business activities. All Electronic Communications are the Town’s property. The Town has the right and the ability to monitor and review all Electronic Communications at any time without notice to its employees or any other party and for any purpose whatsoever.~~

~~Town employees may not use the System, or send, receive, create or store Electronic Communications upon the System, in a manner that is illegal, disruptive to others, or that interferes with the Town’s business activities. All Town employees are prohibited from using any part of the System to harass others, or to download, obtain, display, store, receive or transmit:~~

- ~~a) Any information that is sexually explicit, obscene, or of a sexual nature, that contain libelous or defamatory material, or that would not be permitted on any bulletin located on Town property;~~
- ~~b) Any ethnic, racial or religious slurs, or anything that is, or may be construed as, disparagement of others based on race, color, national origin, ancestry, gender, sexual orientation, age, disability, religious or political beliefs, or any other basis prohibited by law; or~~
- ~~c) Any communications that are derogatory of fellow employees (except as may be required as part of the Town’s business activities). The System may also not be used to solicit anyone for any commercial, religious, charitable, or political causes, or for outside organizations. Except as otherwise provided below, the System may not be used for any purpose that is not related to Town business.~~

~~E-mail is used to transmit and receive messages internally and externally on matters of business connected to the Town. The occasional employee use of e-mail with permissible content for personal matters is not prohibited, but is discouraged.~~

~~Voicemail is used to leave messages for employees regarding matters of a business nature. Voicemail boxes will occasionally be emptied to free up System space.~~

~~Internet Usage is to be limited to matters of business connected to the Town. The occasional use of the Internet for otherwise permissible personal matters is not prohibited, but is discouraged.~~ Any downloading of materials or loading of programs/software onto any part of the System without permission from ~~Town technical staff~~ is prohibited.

~~The workplace activities of Town employees reflect upon, and may create liability for, the Town. The person signing as an employee below acknowledges receiving a copy of this policy and understands that the Town may take disciplinary action, up to and including termination of employment, against any employee who violates the terms of this policy as those terms may be changed and/or supplemented from time to time by the Town.~~

## **APPENDIX D – EMPLOYER / EMPLOYEE CONTRIBUTION**

### **A. Retirement Contribution:**

Ordered the Gray Town Council will match the retirement contribution amount for the town employees at 6% and will increase the contribution at 7.5% for 10 years of service, 8% for 15 years of service, 8.5% for 20 years of service and a maximum of 9% for 25 years of service and that the increase to employees retirement plan will not exceed the employee's contribution.

## **APPENDIX E - OPTIONAL BENEFITS**

- A. Vision Plan
- B. Dental
- C. Income Protection
- D. Medical Reimbursement Plan
- E. All other Town Manager approved plans that are 100% Employee funded

## **APPENDIX F – INFECTIOUS DISEASE POLICY**

### A. Purpose

This is to establish the policy of the Town for managing infectious disease issues as they relate to employees and/or prospective employees including but not limited to the following diseases: AIDS, Chickenpox, Hepatitis A, Hepatitis B, Impetigo, Measles, Mumps, Pertussis, and Parasitic Infestations. Any employee or volunteer who could or does come into contact with bodily fluids while performing their job as a Town employee or volunteer, should immediately reference the Town Exposure Control Plan. Copies of the Exposure Control Plan are available in the Town Manager's office, as well as in the Police, Fire/Rescue, Public Works and Community Services Departments.

### B. Policy

1. It is the policy of the Town to assure to the extent possible a safe and beautiful work environment.
2. It is also the policy of the Town to ensure full compliance with state, federal, and local requirements dealing with infectious diseases.
3. Town procedures shall comply with the Center for Disease Control recommendations for specific infectious diseases. These recommendations will be available through the employee's Department Head.
4. It is the obligation of all Town employees to take all reasonable precautions to protect themselves, co-workers, clients and the public from infectious diseases.
5. The Town shall make available to all employees and volunteers who have occupational exposure the Hepatitis B vaccination series and post exposure evaluation and follow-up. Please reference the Town Exposure Control Plan for detailed information on necessary procedure to follow.

### C. Procedures

- 1) The Town will not discriminate against employees and/or prospective employees with infectious diseases who are otherwise qualified to perform their job functions with reasonable accommodation. Employees with infectious diseases will be treated under existing policies, state, federal, and local requirements, and collective bargaining agreements.
- 2) Where allowed by law, the Town retains the right to test employees for infectious diseases.
- 3) The Town must maintain confidentially regarding an employee's health status, and does not have a duty to inform other individual or organizations unless required by law.

- 4) Upon medical confirmation of an infectious disease that may be a threat to the public health, the affected employee has the responsibility to notify the Town's Personnel Administrator, and to carry out his or her assigned duties if reasonable accommodations can be made.
- 5) Upon notification by an employee that an infectious disease has been confirmed and is a threat to the public health, the Personnel Administrator will:
  - a) Secure, if possible, all appropriate releases for information from the employee and notify those individuals for whom those releases have been acquired.
  - b) Assist in the identification of reasonable accommodations to be made, if any.
  - c) Assist individual departments, if necessary, in complying with this policy.
  - d) The Town will treat all occupational infectious disease injuries or illnesses according to state law.
- 6) The Town will provide appropriate educational opportunities and current informational material on infectious disease issues, including prevention, protection, control measures, and treatment practices.
- 7) Individual departments have the right to develop protocols regarding infectious disease control provided that those protocols conform to this policy.
- 8) An employee cannot refuse to carry out his or her assigned duties when dealing with a co-worker or the public with an infectious disease unless that individual makes a threat of harm to the employee. Failure to adhere to this procedure will result in disciplinary action.

D. Accidental Needle Stick Procedure

Police, fire, rescue and solid waste personnel have the highest risk of exposure to needles and syringes. Exposure to a used, contaminated needle places an employee at risk for contracting an infectious disease. In the event of an accidental puncture with a contaminated needle, the procedure is as follows:

- 1) Wash the puncture site thoroughly with soap/disinfectant and water.
- 2) Report the incident to your supervisor.
- 3) Police, fire or rescue personnel must notify the medical facility receiving the patient of the incident.
- 4) Complete Incident and/or Workers Compensation forms.
- 5) Establish your potential exposure risk to infectious diseases.

- 6) Notify your Department Head to establish your:
  - a) Tetanus status,
  - b) Hepatitis B status, and
  - c) HIV exposure.
- 7) Seek further medical attention if necessary.

E. Procedure for Exposure to AIDS infection

If a Town employee is exposed to the blood or body-fluid of a known or highly suspected AIDS infected person:

- 1) Wash the exposed areas thoroughly with soap and water. Clean any spills with one (1) part bleach to ten (10) parts water solution.
- 2) Report the incident to your supervisor.
- 3) Complete the Incident and Workers Compensation forms.
- 4) Notify your Department Head as soon as possible to schedule an appointment for a voluntary blood test.
- 5) The blood test will be drawn within two weeks of the incident, six months later, and nine months later. The blood test is sent to the Maine Public Health Division in Augusta. Results are received approximately one week later. You will be notified of the test results.
- 6) If all three specimens are negative, you are considered not to be infected.
- 7) Counseling occurs with each visit or when requested, and is also available to family members and co-workers.
- 8) Emotional counseling is available through a counselor of the employee's choice and to be provided by the Town.
- 9) Strict confidence will be maintained in all incidences unless appropriate medical and/or information releases have been obtained.

## **APPENDIX G – EARNED PAID LEAVE (Effective January 1, 2021)**

As defined by 26 MRSA Section 1043(11), The State of Maine’s Earned Paid Leave (EPL) Law requires employers with more than 10 employees to provide earned paid leave equal to or in excess of the Earned Paid Leave Law.

Covered Employees: Covered employees under the Earned Paid Leave Law include, but may not be limited to, full-time, part-time, temporary, on-call, call firefighters (under certain work events and unless excluded as outlined below), and per diem employees.

Exclusions: Employees determined to be seasonal employees by the Unemployment Insurance Commission will not accrue Earned Paid Leave during the seasonal period of June 15 – September 15. Employees, such as Election Workers and call firefighters, who are paid less than \$1,000 in a calendar year, are excluded from the Earned Paid Leave Law. Additionally, call firefighters who are only paid when they choose to respond to a fire or other emergency may also be excluded from the Earned Paid Leave Law.

Regular Full-time and Part-time Employees: The Town of Gray currently provides a benefit greater than this EPL law for its regular full-time and part-time employees through its paid vacation, sick, personal, and wellness policies. To comply with Maine’s Earned Paid Leave Law, regular full-time and part-time employees may utilize up to 40 hours of accrued vacation, sick, or personal time during the calendar year for any type of time off as needed. Employees in this classification should refer to the Town’s established paid leave policies and contact their supervisor or Human Resources for clarification.

Accrual of Earned Paid Leave (EPL): All Covered Employees, other than Regular Full-time and Regular Part-time Employees as outlined above, are entitled to earn one hour of paid leave for every 40 hours worked, up to 40 hours in one calendar year of employment. Accrual of this leave begins at the start of employment, but may only be used as set forth below. Unused EPL time will roll over and be available to the covered employee in their next year of employment. However, the maximum amount of EPL available to the covered employee will not exceed 40 hours in one calendar year.

Use of Earned Paid Leave: Once eligible employees, including probationary employees, have been employed for 120 calendar days, they may use earned paid leave in increments of a minimum of ½ hour (30 minutes) for any reason, such as illness, personal and family emergencies, personal time, and vacation. Per diem and on call employees, who sign up, accept shifts when available to work, or are called in to work, may utilize Earned Paid Leave if they need to arrive late or leave early for a shift or have signed up for a shift but are not able to make or work the shift for some unforeseen reason. Per diem and on call employees are not eligible to use EPL for days on which they have not been assigned to a shift.

Notice Requirements: Eligible employees must provide at least four weeks’ prior notice to their supervisor of their intent to use this leave, unless leave is for an emergency, illness, or other sudden necessity where advance notice may not be feasible, and then notice must be given as soon as practicable.

Restrictions of use of Earned Paid Leave: EPL may be denied or canceled by the Department Head during defined peak work periods where approval of such leave would inhibit the ability of the department to safely maintain adequate levels of service to the community.

Leave Accrual upon Separation: (1) Regular full-time and part-time employees: Any unused Earned Paid Leave will be paid to regular full-time and part-time employees at time of separation consistent with existing Town vacation, sick, and personal time policies. (2) Temporary, on-call, and per diem employees: Employees of this classification who are covered employees and not otherwise excluded from eligibility to accrue EPL will not be paid for any unused and accrued Earned Paid Leave upon separation of employment. If a temporary, on-call, or per diem employee returns to work within 365 days of their last date of employment, that employee is entitled to any unused balance of EPL.

**TOWN OF GRAY  
EMPLOYEE PAID TIME OFF**

**Accrual Rates**

Full-Time Employees (Groups I & II)		
Years of Employment	Vacation Time per Pay Period	Sick Leave per Pay Period
Less than 5 years of Service	3.08 hours per pay period	3.692 hours per pay period
5-10 Years of Service	4.62 hours per pay period	<i>See above</i>
10 Years of Service or More	6.16 hours per pay period	<i>See above</i>

Part-Time Employees (Group III)		
Years of Employment	Vacation Time per Pay Period	Sick Leave per Pay Period
Less than 5 years of Service	.0385 hours per hour worked	.04615 hours per hour worked
5-10 Years of Service	<i>See above</i>	<i>See above</i>
10 Years of Service or More	<i>See above</i>	<i>See above</i>

**Vacation Time Accrual Cap**

Full-Time and Part-Time Employees (Groups I-III)		
Years of Employment	Maximum Vacation Time	Notes
Less than 5 years of Service	Two weeks (80 hours)	Accrual ceases at employee's individual limit at left. Time paid out upon separation.
5-10 Years of Service	Three weeks (120 hours)	Accrual ceases at employee's individual limit at left. Time paid out upon separation.
10 Years of Service or More	Four weeks (160 hours)	Accrual ceases at employee's individual limit at left. Time paid out upon separation.

**Sick Time Accrual Cap**

Full-Time and Part-Time Employees (Groups I-III)		
Years of Employment	Maximum Sick Time	Notes
Less than 5 years of Service	960 hours	Employees who have an excess of this cap as of October 1, 2022 will maintain their sick time hours until the accrued hours may fall below 960 hours.
5-10 Years of Service	<i>See above</i>	<i>See above</i>
10 Years of Service or More	<i>See above</i>	<i>See above</i>

### Payout for Accumulated Sick Time

Full-time Employees Only (Groups I & II)		
Years of Employment	Payout Amount	Notes
Less than 5 years of Service	0	No sick time paid out upon separation of employment.
5-10 Years of Service	50% of accrued sick time amount, 200 hours maximum	Employee must be in good standing with the Town.
10 Years of Service or More	50% of accrued sick time amount, 360 hours maximum	Employee must be in good standing with the Town.

### Personal Time

Full-time Employees Only (Groups I & II)		
Years of Employment	Time Received each Year	Notes
Less than 5 years of Service	16 hours	Personal time does not accrue year to year and is not subject to payout upon separation.
5-10 Years of Service	<i>See above</i>	<i>See above</i>
10 Years of Service or More	<i>See above</i>	<i>See above</i>

### Bereavement Time

Full-Time and Part-Time Employees (Groups I-III)		
Years of Employment	Bereavement Time	Notes
Less than 5 years of Service	Up to 3 days of absence caused by the death of a member of the immediate family	See definitions portion of the Personnel Policy.
5-10 Years of Service	<i>See above</i>	<i>See above</i>
10 Years of Service or More	<i>See above</i>	<i>See above</i>

### Earned Paid Leave

Covered Employees	EPL Accrual and Utilization	Notes
Groups I-III (Full-Time and Part-Time Employees)	Up to 40 hours of accrued vacation, sick, or personal time may be used during the calendar year for any type of time off as needed.	Refer to the Town's established paid leave policies for more information.
Group IV (All temporary, seasonal, and per diem employees)	Entitled to earn one hour of paid leave for every 40 hours worked, up to 40 hours in one year. After 120 days of employment, EPL time may be used in 30-min increments for any reason.	Accrual of this leave begins at the start of employment. Refer to EPL section above for requirements, exclusions, and restrictions.

## Digest of Amendments

**Originally Adopted March 1, 1979**

**Amended**

December 21, 1999

September 18, 2001

December 4, 2001

April 6, 2004

January 6, 2009

February 17, 2009

July 7, 2009

**February 2, 2010**

**Repealed and Replaced including Appendices**

February 21, 2012

February 18, 2020

June 7, 2022

December 20, 2022

May 16, 2023

**Acknowledgment**

*I acknowledge that I have received a copy of the Town Personnel Policy, and I do commit to read and follow these policies.*

*I am aware that if, at any time, I have questions regarding Town policies I should direct them to my Department Head or the Human Resources Department.*

*I know that Town policies and other related documents do not form a contract of employment and are not a guarantee by Town of the conditions and benefits that are described within them. Nevertheless, the provisions of such Town policies are incorporated into the acknowledgment, and I agree that I shall abide by its provisions.*

*I also am aware that Town of Gray, at any time, may on reasonable notice, change, add to, or delete from the provisions of the Town policies for which I will be notified.*

\_\_\_\_\_  
*Employee's Printed Name*

\_\_\_\_\_  
*Position*

\_\_\_\_\_  
*Employee's Signature*

\_\_\_\_\_  
*Date*