

Chapter 136

PERSONNEL PLAN

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[History: Adopted by the Board of Selectmen of the Town of Bow 7-12-2011. Amendments noted where applicable.]

§ 136-1. Purpose of plan.

- A. The purpose of this plan is to establish uniform administrative practices for all employees of the Town of Bow. This plan is not a contract, and it does not create any legally enforceable right for any employee. All employees, except those employed pursuant to a written employment contract for a specified term or pursuant to a statute providing otherwise, are employed "at-will." This means that either the Town or the employee may terminate the employment relationship at any time, with or without cause.
- B. Employees covered under this plan will receive a copy of the plan and shall receive copies of new and/or amended policies as change(s) occur and shall acknowledge receipt of same.

§ 136-2. Administration of plan.

- A. It shall be the responsibility of the Board of Selectmen to establish the policies that comprise the plan.
- B. The Town Manager shall be responsible for the overall administration of the plan.
- C. Department heads shall be responsible for adherence to this plan within their departments. Department heads may adopt departmental policies not inconsistent with the policies established in this plan. Departmental policies shall become effective only upon the approval of the Town Manager.

§ 136-3. Equal Opportunity Policy.

- A. It is the policy of the Town of Bow to ensure equal employment opportunity for all employees and appointed representatives. This commitment includes a mandate to promote and afford equal treatment and services to all citizens, employees, and Town representatives, and to assure equal employment opportunity based on ability and fitness to all persons regardless of race, religion, color, creed, national origin, age, sex, sexual orientation, physical or mental disability, or marital status. The Town is committed to providing equal employment opportunities to qualified individuals with disabilities, which includes providing reasonable accommodation to qualified applicants to allow them to perform essential job duties.
- B. In general, it is the employee's responsibility to notify the Town of the need for an accommodation of any physical or mental disability which substantially limits a major life activity. When appropriate, the Town may need an employee's permission to obtain additional information from the employee's physician or other medical or rehabilitation.

professionals to document that the employee has a disability and to assist the Town in assessing any functional limitations for which reasonable accommodation may be needed. All medical information will be treated as confidential in accordance with the Americans with Disabilities Act (ADA). The Town will take all requests for accommodation seriously and will promptly determine whether the employee is a qualified individual with a disability and whether a reasonable accommodation exists which would allow the employee to perform essential functions of the job without imposing an undue hardship on the Town or other employees.

§ 136-4. Hiring process. [Amended 6-12-2012 by Board of Selectmen.]

- A. Recruitment. The Town Manager will be notified immediately of all position vacancies. The affected department may be asked to assist the Town Manager's Office, as necessary, in formulating job announcement ads. The Town Manager's Office will distribute to all Town departments copies of the job announcement for posting. Advertisements for placement in local newspapers, trade publications, and professional journals will be developed and placed by the Town Manager's Office, with assistance from the affected department.
- B. Promotions and Transfers. The Town strives to provide employees with the opportunity to make full use of their skills, interests and potential. To support employee growth and development, the Town will make every effort to promote qualified employees within the Town, if possible, based upon the needs of the Town and employee qualifications.
- C. Residency. Applicants shall be citizens of the United States of America or hold proper certification that enables them to work in this country.
- D. Driver's license. Applicants for positions in which the applicant is expected to operate a motor vehicle must be at least 18 years old and will be required to present a valid state driver's license with any necessary endorsements. Driving records of applicants may be checked. Applicants with poor driving records, as determined by the Town, may be disqualified for employment with the Town in positions requiring driving.
- E. Pre-employment examination. The Town may administer pre-employment examinations to test the qualifications and ability of applicants, as determined necessary by the Town. The Town may contract with any competent agency or individual to prepare and/or administer these examinations.
- F. Interviews/appointments. The department head will review the applications that are submitted and conduct interviews with candidates. The department head will then present a final candidate to the Town Manager for his/her review and action.
- G. Criminal background check. Once an applicant has been extended an offer of employment, a background investigation, to include a criminal background check, will be conducted.

H. Physical examination. The Town may require persons selected for employment to undergo a medical examination, which may include testing for alcohol and controlled substances. The purpose of the examination is to determine if the individual is physically able to perform the job and to ensure their physical condition will not endanger the health, safety or well-being of other employees or the public. The offer of employment may be conditioned on the results of the examination. A candidate may be disqualified from consideration if:

- (1) Found physically unable to perform the duties of the position and the individual's disability cannot reasonably be accommodated in the workplace.
- (2) The candidate refuses to submit to a medical examination or complete medical history forms; or
- (3) If the exam reveals use of alcohol and/or controlled substances.

§ 136-5. Position descriptions.

- A. A description will be prepared for each position which will generally outline the duties and responsibilities of the position, necessary knowledge, skills and abilities and Fair Labor Standards Act (FLSA) classification.
- B. Employees shall receive a copy of their position description at the time of appointment.
- C. All position descriptions shall be retained at the Town Manager's Office and are available for review.
- D. Any position description may be changed at the discretion of the Town Manager with such notice as he/she determines to be appropriate.

§ 136-6. Employee classifications. [Amended 6-26-18 by Ord. No. 18-02]

Employees shall be defined as listed below. When appointed, employees shall be made aware of their status.

- A. Full-time employee: An employee who is regularly scheduled to work a minimum of forty (40) hours per week on a regular basis throughout the year (52 weeks).
- B. Regular Part-time employee: An employee who is regularly scheduled to work a minimum of at least twenty (20) hours per week but less than forty (40) hours per week on a regular basis throughout the year (52 weeks).
- C. Part-time employee: An employee who is regularly scheduled to work less than twenty (20) hours per week; or who works only when called. Part-time employees are not

eligible for paid leave (including holidays), group insurance coverage, and other employee benefits.

- D. Seasonal employee: An employee who is hired for a specific period of time which is less than fifty-two (52) weeks per year. Seasonal employees are not eligible for paid leave (including holidays), group insurance coverage, and other employee benefits.
- E. All employees are classified as either Exempt or Non-exempt employees. An employee's Exempt or Nonexempt status is determined by his/her responsibilities, duties, educational qualifications, and salary. Classification of employees with regard to eligibility for overtime pay is done in accordance with the criteria set forth in the rules and regulations of the Fair Labor Standards Act (FLSA).

§ 136-7. Date of Hire/Anniversary date.

- A. Date of hire shall mean the effective date of the individual's employment with the Town. The date of hire shall be used to determine the length of service.
- C. Anniversary date shall mean the date the employee began his/her employment in the most recent position. An employee whose position is changed by promotion, demotion, or transfer will have his/her anniversary date changed to the effective date of the promotion, demotion or transfer.

§ 136-8. Probationary period.

The appointment of an employee shall in the first instance be made for a probationary period of six (6) months. A performance evaluation will be performed at the end of the probationary period. A probationary period may be extended to an additional period by the Town Manager if it is determined that a longer period of evaluation is necessary.

§ 136-9. Compensation. [Amended 6-11-2019 by Ord. No. 19-05]

- A. Each employment position is assigned to a pay grade on the Town's salary and wage schedule. Employees shall be paid within the limits of the pay range applicable to the pay grade to which his/her position has been assigned.
- B. New employees will normally start employment at the minimum level of the applicable pay range. However, an exception can be made where the new employee's training, education and/or experience warrants a higher starting compensation, or when the prevailing market conditions require higher starting compensation.
- C. Employees may be eligible to advance through the steps of their pay range based on performance and upon the recommendation of their Department Head. The Town Manager shall approve step increases based on satisfactory evaluations (see § 136-15. Performance evaluations). Step increases shall become effective at the beginning of the next pay period closest following the employees' anniversary date.

- D. Cost-of-living increases may be awarded at such times and amounts as authorized by the Board of Selectmen. Cost-of-living increases shall become effective on the first day of the full pay period following the beginning of the fiscal year (July 1).

§ 136-10. Personnel Action Report Form. [Amended 6-11-2019 by Ord. No. 19-05]

- A. A Personnel Action Report form ("PAR") shall be completed by the department head to report an employee's hire and all subsequent aspects of that employee's employment including the following.
1. Completion of probationary period
 2. Voluntary or involuntary termination
 3. Suspensions and other disciplinary action
 4. Promotions
 5. All wage adjustments other than cost of living adjustments
 6. Reclassifications
 7. Unpaid leaves of absence
 8. FMLA leaves
- B. PARs shall be submitted to the Town Manager for approval and shall be signed by the employee only after Town Manager approval.
- C. The approved PAR original shall be maintained in the employee's personnel file in the Town Manager's Office, and copies shall be provided to the department head, employee, and Finance Office.

§ 136-11. Work schedule.

Actual starting and closing times vary from department to department. The department heads, with the approval of the Town Manager, will determine the workday hours. Employees shall generally be paid on a weekly basis. The work week shall begin on Sunday and end on Saturday. Compensation for a given work week shall generally be paid on the following Thursday.

§ 136-12. Overtime. [Amended 6-11-2019 by Ord. No. 19-05]

- A. Non-exempt employees, with the exception of personnel working in a fire protection and EMS activities position, as defined in the Fair Labor Standards Act, shall be paid at 1.5 times their normal hourly rate for each hour or portion thereof actually worked in excess of forty (40) hours in a pay period. Paid leave occurring during a pay period shall be counted as hours worked for the purpose of calculating overtime.
- B. Non-exempt employees working in a fire protection and EMS activities position, as defined in the Fair Labor Standards Act, shall be paid and paid at a rate of 1.5 times their normal rate for each hour or portion thereof actually worked in excess of fifty-two (52) hours in a pay period. Paid leave during the pay period shall be counted as hours worked for the purpose of calculating overtime.

- C. Overtime is not authorized unless approved in advance by the employee's supervisor. Any employee working overtime without such advance approval may be subject to disciplinary action.
- D. Call back pay. All non-exempt employees who are called back to work after the conclusion of his/her regularly scheduled work period shall be paid a minimum of two (2) hours of pay at the rate of 1.5 times their normal hourly rate. Employees working in fire protection and EMS activities will be paid their hourly rate until they have exceeded fifty-two (52) hours in that pay period.
- E. Compensatory leave. The Town's normal practice is to pay cash overtime. At the employee's request, department heads may authorize compensatory leave time in lieu of cash payment for overtime.
- (1) Non-exempt employees, with the exception of personnel working in a fire protection and EMS activities position, as defined in the Fair Labor Standards Act, may accrue compensatory leave at a rate of 1.5 times their normal hourly rate for each hour or portion thereof actually worked in excess of forty (40) hours in a pay period.
 - (2) Non-exempt employees working in a fire protection and EMS activities position, as defined in the Fair Labor Standards Act, may accrue compensatory leave at a rate of 1 times their normal hourly rate for each hour or portion thereof actually worked in excess between forty-eight (48) hours and fifty-one (51) hours in a pay period, or at a rate of 1.5 times their normal hourly rate for each hour or portion thereof actually worked in excess of fifty-two (52) hours in a pay period.
 - (3) Qualifying employees may accrue compensatory time up to forty (40) hours; any overtime thereafter worked shall be paid in cash until the compensatory time balance has been reduced below forty (40) hours.
 - (4) Upon voluntary or involuntary termination, an employee will be compensated for all accrued compensatory time.
- F. Employees exempt from the overtime provisions of the Federal Fair Labor Standards Act (FLSA exempt) are expected to work whatever hours are necessary in order to complete their essential job functions and responsibilities. Generally, to meet these expectations, an exempt employee will need to work 40 or more hours per week. Exempt employees are not eligible to accumulate compensatory time. The Town Manager may permit time off when an exempt employee is required to work due to exceptional situations such as temporary high priority project assignments, performing work due to department vacancies or responding to emergency situations.

§ 136-13. Unauthorized absences.

The absence of an employee from duty for a day, or part of a day, which is not authorized by specific permission from the department head, will be deemed to be an absence without leave. Any such unexcused absence will be without pay and may be a reason for disciplinary action.

§ 136-14. Payroll time sheet. [Amended 5-27-2014 by Ord. No. 14-02]

- A. Department heads are responsible for maintaining complete and accurate records of attendance within their departments and for the accurate reporting of attendance on weekly payroll time sheets to be submitted to the Finance Department before 8:30 a.m. each Monday. The time sheet shall be signed by employee and the department head, or his/her designee.
- B. The payroll time sheet shall report all hours actually worked and all hours of paid and unpaid leave. Reported hours may be rounded to the nearest $\frac{1}{4}$ hour or nearest $\frac{1}{10}$ hour.

§ 136-15. Performance evaluations. [Amended 7-14-2020 by Ord. No. 20-02]

All employees shall be evaluated at least once annually on or about their anniversary date. The purpose of the evaluation is to monitor the employee's performance and to provide a record of the employee's strengths and weaknesses. Evaluations shall be completed by the department head or designee and reviewed by the Town Manager. The evaluation shall become the basis for any available merit increase. Employees shall have the opportunity to review and comment on evaluations.

§ 136-16. Personnel files. [Amended 6-11-2019 by Ord. No. 19-05]

- A. A file shall be maintained for each employee. The file maintained by the Town Manager's Office shall be considered the employee's official file.
- B. An employee may inspect his/her own personnel file during regular office hours, upon reasonable request. However, the employee may not be permitted to review his/her personnel file if he/she is subject to an investigation at the time of the request and disclosure of such information would prejudice law enforcement. File inspection must be done on the employee's own time and must be arranged through the Town Manager. An employee may not remove any portion of the file. Upon request, an employee will be provided with a copy of all or part of his/her personnel file.
- C. If an employee disagrees with any of the information contained in such file, he/she may submit a written statement explaining his/her version of the information together with evidence supporting such version. The Town will maintain such statement as part of the employee's personnel file and will include the statement in any transmittal of the file to a third party.
- D. An employee must notify the Town Manager's Office as soon as possible of any changes in their name, address, telephone number, marital status, dependents and/or beneficiaries. The Town Manager's Office shall forward changes to the Finance Office.

§ 136-17. Employee appearance. [Amended 9-13-2011 by Board of Selectmen.]

Employees shall dress appropriately for their position and maintain reasonable neatness and cleanliness in order to present a professional image to customers, visitors, coworkers, and the public. Dress requirements may vary by department; however, certain rules apply across the board to all employees. Employees should consult their supervisor if they have questions as to what constitutes proper attire. Exceptions may be granted to employees to accommodate religious or cultural factors or medical conditions. Employees who are inappropriately dressed may be sent home and required to return to work in acceptable attire. Under these circumstances, employees will not be paid for the time away from work.

§ 136-18. Smoking policy.

In order to accommodate employees, visitors, and vendors' interests the Town is committed to providing a safe, healthy, and smoke-free work environment. Consistent with state law, the Town has declared a no smoking policy within our buildings and in or on Town vehicles, except in designated smoking areas. Designated smoking areas will be properly posted and enforced by the appropriate Department Head. Employees may smoke only during authorized breaks and in designated areas. If an employee fails to comply with these rules, the employee shall be subject to disciplinary action, up to and including termination.

§ 136-19. E-mail, Internet and computer usage.

- A. E-mail. E-mail is a mode of communication provided by the Town to its employees to facilitate communication. Electronic mail is Town property. The Town reserves the right to monitor electronic mail, to check system performance and ensure that the system is used appropriately. The Town must have access to an employee's electronic mail if the employee is not available. Employees do not have a personal privacy right in matter created, received or sent via electronic mail.
- B. Internet access. Access to the Internet is a mode of communication provided by the Town to its employees to facilitate communication. Access to the Internet is limited to Town business only. The Town reserves the right to monitor Internet usage to ensure that the system is being used properly.
- C. Misuse of the electronic mail system and the Internet may result in disciplinary action, up to and including termination. Examples of misuse include, but are not limited to:
 - (1) Use of electronic mail and the Internet for any unlawful purpose
 - (2) Using profane or abusive language.
 - (3) Using electronic mail and the Internet for harassment including sexual harassment.

- (4) Using electronic mail and the Internet for personal business or commercial purposes.
 - (5) Use of electronic mail and the Internet to create or send messages which might constitute intimidating, hostile, or offensive materials on the basis of sex, age, race, color, religion, national origin, sexual orientation, or disability.
- D. Loading of programs/software. No employee may download any program or software, or load software onto his/her computer, server or network, without approval from the Town Manager.

§ 136-20. Cell phone/PDA policy. [Amended 5-27-2014 by Ord. No. 14-02]

- A. Town employees authorized to carry Town-owned cell phones will be appointed by the Town Manager each year. Town employees are permitted limited use of Town cell phones for personal needs if the use does not interfere with Town business and involves no additional expense to the Town. Department heads shall be responsible for monitoring employee's use of equipment.
- B. Each Town employee who is authorized to carry a Town- owned cell phone may choose to use their own personal cell phone and receive a monthly stipend for such usage. The amount of the monthly stipend will be determined each year by the Town Manager. Only employees who are authorized to carry Town-owned cell phones will be eligible for this reimbursement. Employees using their own cell phones for business will not receive any additional funds to cover the cost of replacement of the equipment if lost or damaged during the course of their work, insurance payment reimbursement or be reimbursement for any added usage.
- C. Drivers may not use their phones or other personal digital devices in any manner, including but not limited to making or receiving calls; sending, viewing or receiving text or voice messages of any kind; checking time; looking up information contained on phone or personal digital devices while driving a Town vehicle, while driving any vehicle on Town related business, or while driving or operating any Town machinery or equipment with the exception of police, fire and public works personnel who may receive work-related calls and texts in their official capacity. Failure to comply with this policy may result in disciplinary action, up to and including termination.

§ 136-21. Sexual and Anti-harassment policy.

- A. The Town of Bow believes that each individual employed by us has the right to be free from illegal discrimination or harassment because of race, creed, color, familial status, religion, national origin, age, sex, marital status, sexual orientation, physical or mental disability or veteran status. All employees should be able to work in an environment free from all forms of discrimination, intimidation and harassment, including sexual harassment. All employees must treat each other with courtesy, consideration and professionalism. To achieve our goal of providing a workplace free from sexual and other

illegal harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with. Where inappropriate conduct is found, we will act promptly to eliminate the conduct and impose such corrective actions as are necessary including disciplinary action or termination where appropriate. Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual or other illegal harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of illegal or sexual harassment.

- B. Harassment refers to unreasonable conduct or behavior which is personally offensive or threatening, impairs morale, or interferes with the work effectiveness of employees. Examples of harassment include conduct or comments that threaten physical violence; offensive, unsolicited remarks; unwelcome gestures or physical contact, display or circulation of written materials, items or pictures degrading to any gender, racial, ethnic, religious, age, handicap or other group listed above; and verbal abuse or insults about or directed at any employee, or group of employees because of their relationship in any of the groups listed above. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- (1) Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- (2) Such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

- C. The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment. While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- 1) Verbal: sexual innuendoes, racial or sexual epithets, derogatory slurs, off-color jokes, propositions, threats or suggestive or insulting sounds.
- (2) Visual/non-verbal: derogatory posters, cartoons, or drawings; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures.
- (3) Physical: unwanted physical contact including touching, interference with an individual's normal work movement or assault; and

- (4) Retaliation: making or threatening reprisals as a result of a negative response to harassment.
- D. Each employee must exercise his or her good judgment to avoid engaging in conduct that may be perceived by others as harassment. Harassment can come from superiors, fellow employees, clients, visitors or vendors. Men as well as women can be victims of sexual or other harassment. It cannot be stressed enough that the Town will not tolerate any form of illegal discrimination or harassment. Violations of this policy, whether intended or not, will not be permitted. All employees should take special note that retaliation against an individual who has complained about sexual or other harassment, and retaliation against individuals for cooperating with an investigation of a sexual or other harassment complaint is unlawful and will not be tolerated by the Town.
- E. Should you feel that you are being harassed or that you have observed harassment, please follow these guidelines to help us remedy the problem. Harassment by other employees, clients or vendors should immediately be brought to the attention of your immediate supervisor, your department head or the Town Manager. These individuals are also available to discuss any questions or concerns you may have and to provide information to you about our policy on sexual or other illegal harassment and our complaint process. Do not allow an inappropriate situation to continue by not reporting it, regardless of who is creating the problem. No employee or official in this organization is exempt from this policy. If, at any point in the process, a complaining employee is dissatisfied with the investigation being conducted, the employee should bring it to the attention of the individuals listed above.
- F. Harassment investigation. When we receive a complaint of harassment, we will promptly investigate the allegation. Complaints will be kept confidential to the extent consistent with our obligation to look into and remedy any harassment. For most matters, the investigation will include an interview with the person filing the complaint, an interview with the person alleged to have committed the harassment, and to the extent necessary, interviews with co-employees or other witnesses. All employees are expected to be truthful, forthcoming and cooperative in connection with a complaint investigation. Once the investigation is complete, we will, to the extent possible, inform the person filing the complaint and the person alleged to have committed the conduct of the results of the investigation. If it is determined that inappropriate conduct occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate, we will impose disciplinary action. There may be instances when, depending upon the nature of the allegations of harassment, an alleged harasser will be suspended, with pay, pending investigation. The suspension pending investigation should not be considered as a conclusion of wrongdoing.
- G. Disciplinary action. The Town of Bow will not condone, permit or tolerate the harassment of employees in any manner whatsoever. Any employee or official who is found to have engaged in harassment or discrimination contrary to this policy will be subject to disciplinary action, up to and including suspension or termination, depending, among other things, on the nature of the conduct.

H. Retaliation. The Town of Bow also prohibits any form of retaliation against any employee for filing a good faith complaint under this policy or for assisting in a complaint investigation. Anyone who is found to have engaged in such retaliation against a person who has registered a complaint under this policy or to have retaliated against anyone for assisting in the investigation of such a complaint will be subject to disciplinary action up to and including suspension or termination. Any employee who believes that he or she is being retaliated against should bring it to the attention of the Town Manager, or any department head, so that appropriate action may be taken.

§ 136-22. Drug and Alcohol testing. [Amended 5-27-2014 by Ord. No. 14-02]

Policy for Federal Motor Carrier Regulated Drivers - Appendix A at end of Chapter.

§ 136-23. Disciplinary procedures. [Amended 7-14-2020 by Ord. No. 20-02]

A. Nothing in this section shall change the "at will" nature of employment with the Town of Bow which means that employees may be terminated with or without cause. However, disciplinary action may be taken for any cause, including but not limited to the following:

- (1) Attendance: absenteeism; tardiness.
- (2) Performance: poor performance; impaired performance caused by drug or alcohol use.
- (3) Infractions: offenses against the law or against generally accepted standards of personal conduct; insubordination.
- (4) Sexual harassment

B. Depending upon the nature of the offense, discipline may be initiated at the appropriate level. This sequence need not be followed in cases of serious infractions that warrant immediate suspension, demotion or discharge.

- (1) Verbal warning. The immediate supervisor or department head shall issue a verbal warning as soon as possible after knowledge of the infraction. The supervisor or department head shall notify the employee of the nature of the infraction and will offer remedial suggestions. Documentation regarding the verbal warning is to be filed within the department and it will not be forwarded for placement in the employee's personnel file.
- (2) Written warning. The department head or designee shall issue a written warning for the repeat of the offense that was the source of verbal warning or for a more serious offense. The warning will outline the nature of the infraction and will offer remedial suggestions. A copy of the warning will be placed in the employee's personnel file and the Town Manager shall be made aware of the action initiated.

- (3) Suspension. The department head may suspend the employee without pay for recurring offense or an offense that warrants suspension. The length of the suspension shall depend upon the nature of the offense. The department head shall notify the Town Manager of the suspension within one (1) workday of initiating the suspension. The employee shall be notified in writing, and a copy of the letter of suspension shall be placed on the employee's personnel file.
- (4) Termination. The department head shall recommend to the Town Manager that the employee be terminated. The recommendation shall be made in writing. The Town Manager will meet with the department head to discuss the recommendation and shall render a decision within fourteen (14) days.

§ 136-24. Grievance procedure. [Amended 6-11-2019 by Ord. No. 19-05]

The grievance procedure shall be as follows:

Step 1. An employee is expected to discuss any grievance initially with his/her immediate supervisor. If the matter is not resolved, the employee may choose to submit it in writing to the department head. The grievance must specify the person allegedly causing the grievance; the time and place of the action being grieved; the nature of the grievance; the specific injury or loss that is claimed; and the remedy sought. The grievance must be submitted to the department head, in writing, no later than 30 days after the injury, loss, action, or inaction occurred. The department head shall provide a written response within seven (7) business days following the receipt of the written grievance.

Step 2. If the grievance is not resolved to the employee's satisfaction at Step 1, a written appeal may be filed with the Town Manager within seven (7) business days of the receipt of the decision at Step 1. All documentation presented at Step 1, along with the Step 1 decision, shall accompany the appeal to the Town Manager. The Town Manager shall arrange a meeting between all interested parties in an effort to solve the grievance. The Town Manager shall render a written decision no later than ten (10) business days following the hearing.

Step 3. If the grievance is not resolved to the employee's satisfaction at Step 2, a written appeal may be filed with the Board of Selectmen within seven (7) business days of the receipt of the decision at Step 2. All documentation presented at Steps 1 and 2, along with Step 1 and 2 decisions, shall accompany the appeal to the Board of Selectmen. The Board of Selectmen shall render a written decision no later than fifteen (15) business days following receipt of the appeal, excluding the day that the appeal is received.

§ 136-25. Holidays. [Amended 6-11-2019 by Ord. No. 19-05]

- A. All Full-time and regular part-time employees are eligible for the following holidays with pay, effective upon the date of employment.

New Year's Day
Martin Luther King Day
Presidents Day
Memorial Day
Independence Day
Labor Day

Veterans Day
Thanksgiving
Day after Thanksgiving
Christmas Eve
Christmas Day

- B. On each holiday, Full-time non-exempt employees of the Fire Department, who are required to work when their scheduled shift falls on the actual holiday (not observed), shall be paid at 1.5 times their base hourly rate for work on a holiday from 8:00 a.m. to 8:00 p.m. Fire Department Full time employees assigned to shift duties, regardless of whether they are normally assigned to work on a holiday or not shall receive compensation of eight (8) hours of straight time for the holiday. Holiday pay shall be in addition to the compensation which an employee earns for working on the holiday.
- C. On each holiday, non-exempt employees of the Police Department, who are typically required to work when their scheduled workday falls on a holiday, shall be paid at 1.5 times their base hourly rate for work on a holiday. Police Department employees assigned to shift duties, regardless of whether they are normally assigned to work on a holiday or not shall receive compensation of eight (8) hours of straight time for the holiday. Holiday pay shall be in addition to the compensation which an employee earns for working on the holiday.
- D. Other Full-time employees will be granted eight (8) paid leave for the holiday. Regular Part-time employees will be paid a prorated number of holiday pay hours at their base wage rate whether or not they actually work on that holiday. For example, a part-time employee who is regularly scheduled to work twenty hours per week will be paid four hours of holiday pay (8 hours X 20/40). For these employees, holidays falling on a Sunday will be observed on the following Monday, and holidays falling on a Saturday will be observed on the preceding Friday. If a non-exempt employee is required to work an unscheduled holiday, they shall be paid 1.5 times their normal hourly rate for time worked on the holiday in addition to the holiday pay.

§ 136-26. Vacation leave. [Amended 6-11-2019 by Ord. No. 19-05]

- A. All Full-time employees and Regular Part-time employees will accrue paid vacation leave at the following hourly accrual rates. Since the vacation leave which is accrued during one year is expected to be taken within the next year, an employee's vacation leave accrual balance shall never exceed an amount equal to twice his/her annual accrual as indicated below.

<u>Years of Service</u>	<u>Hourly Accrual</u>	<u>Maximum Accrual</u>
0-5 years	0.0385	160 hours
6-14 years	0.0577	240 hours
15-19 years	0.0769	320 hours
20 years or more	0.0962	400 hours

- B. Vacation schedules shall be determined by department heads and/or their designees, based on seniority and other departmental priorities. All employees must submit requests for vacation time to their supervisor in writing.
- C. A paid holiday falling within a vacation is not considered as a day of vacation.
- D. Employees are encouraged to take at least one (1) calendar week of vacation leave. Employees shall not take longer than two (2) consecutive calendar weeks of vacation leave at one time unless approved by the Town Manager.
- E. Vacation leave shall not accrue during a work week in which the employee is not in pay status (working or on paid leave) for less than the employee's regular schedule. For example, a Full-time employee, who is scheduled to work 40 hours per week but works only 16 hours before beginning an unpaid leave of absence, will accrue no vacation for that work week.
- F. Upon voluntary or involuntary termination, an employee will be compensated for all accrued vacation leave.

§ 136-27. Sick leave. [Amended 10-8-2024 by Ord. No. 24-06]

- A. All Full-time and Regular Part-time employees shall accrue sick leave at the rate of 0.0577 per hour worked. Full-time employees may accrue sick leave to a maximum of 720 hours. Regular Part-time employees may accrue sick leave to a maximum of 360 hours.
- B. Sick leave benefits shall apply to bona fide cases of sickness, accidents, doctor or dental appointments and maternity leave. An employee may use sick leave for family illness or injury only if the employee must provide direct care to an immediate family member. For a sick leave absence of three (3) or more consecutive workdays, an employee may be required to provide a physician's written prognosis and for a sick leave absence of seven (7) or more consecutive calendar days an employee may be required to complete an application for short-term disability insurance benefits.
- C. When an employee goes on sick leave, he/she must notify his/her department head or designated supervisor immediately. Notification should be within thirty (30) minutes after the beginning of the scheduled workday. Failure to do so may result in denial of such leave pay. The employee should also let the supervisor know when he/she expects to return to work.
- D. It is the responsibility of each department head or designated supervisor to ensure the provisions of this policy are observed. Corrective action should be taken in instances of suspected abuses or misinterpretation of the utilization of sick leave. Department heads or designated supervisors will ensure that any sick leave used will be reflected with the submission of time sheets.

- E. At time of voluntary termination of employment, an employee may be entitled to receive compensation, at his/her normal base rate, of up to forty (40) hours of his/her remaining unused sick leave if the employee notifies their supervisor in writing at least two weeks in advance of their departure date and works the remaining two weeks of employment without using sick or vacation leave. Employees shall not be paid unused sick leave upon involuntary termination of employment.
- F. In the event of an employee's death, all accumulated sick leave will be paid according to NH RSA 560:20-21.
- G. Any non-exempt Full-time employee who has used no accrued sick leave during a calendar quarter shall accrue four (4) hours of compensatory time leave up to a maximum accrual of forty (40) hours. In cases where the employee has accrued the maximum allowance, the Town shall pay such employee four (4) hours of straight time in recognition of their non-use of sick leave during that calendar quarter.

§ 136-28. Family and Medical Leave (FMLA). [Amended 8-11-2020 by Ord. No. 20-03]

- A. Under the provisions of the Family and Medical Leave Act of 1993 (FMLA), all employees who have worked for the Town for at least 12 months and have worked at least 1,250 hours during the last 12 months are eligible for family and medical leave.
- B. Eligible employees may take an unpaid leave of absence and be restored to the same or an equivalent position upon their return to work for any of the following reasons:
 - (1) The birth of the employee's child and to care for the newborn child (leave must be taken within twelve months of the birth of the child).
 - (2) The placement of a child with the employee for adoption or foster care, and in order to care for the newly placed child (leave must be taken within twelve months of the adoption or placement of the child).
 - (3) The serious health condition of a spouse, parent, minor child, or adult child when the adult child is incapable of self-care and the employee is needed for such care ("covered family members").
 - (4) The employee's own serious health condition that renders the employee unable to perform his or her job.
 - (5) A "qualifying exigency" (as defined in the Department of Labor Regulations) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on "covered active duty" or has been notified of an impending call or order to "covered active duty" in the United States Armed Forces;

- (6) The employee is a spouse, son, daughter, parent, or next of kin of a "covered servicemember" (as defined in the Department of Labor Regulations) who has a serious injury or illness, and the employee is needed to care for such person.

C. Leave calculation.

- (1) If an employee takes FMLA leave for a reason stated in paragraphs B (1)-(5), above, the employee is entitled to up to twelve (12) workweeks of unpaid leave during a

twelve (12) month period. That twelve (12) month period is defined as a "rolling" twelve (12) month period measured backward from the date an employee begins an

FMLA leave. In other words, the number of weeks the employee has available upon the beginning of a FMLA leave will be twelve (12) weeks less the number of FMLA leave weeks taken in the twelve (12) month period prior to the beginning of the current FMLA leave (the "Available Leave Weeks"). For example, if an employee used four weeks beginning February 1, 2008, four weeks beginning June 1, 2008, and four weeks beginning December 1, 2008, the employee would not be entitled to any additional leave until February 1, 2009. Beginning on February 1, 2009, the employee would be entitled to start accruing a new four weeks of leave; on June 1, 2009, the employee would be entitled to start accruing four additional weeks and so on.

- (2) If an employee takes FMLA leave for the reason stated in paragraph B (6), above, the employee may take up to 26 weeks of unpaid FMLA leave within a single 12-month period. This 12-month period begins on the first day of leave. The leave entitlement described in paragraph B (6) above is to be applied on a per-covered-service member, per injury basis such that an eligible employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious illness of injury, except that no more than 26 workweeks of leave may be taken within any single 12-month period.

- D. When the need for leave is foreseeable, requests for family and medical leave must be submitted in writing to the Town Manager at least 30 days in advance of the start of the leave. If the need for the leave was not foreseen, notice must be provided as soon as possible after the need arises. The decision concerning the request shall be made by the Town Manager. The Town also reserves the right to place an employee on family and medical leave status of its own volition if conditions warrant such leave, even if the leave is not requested by the employee, and such designation may be applied retroactively.
- E. Under some circumstances, employees may take FMLA leaves of absences intermittently (in separate blocks of time due to a single FMLA qualifying reason) or on a reduced leave schedule (reducing the usual number of hours an employee works per workweek or workday).

- (1) Certification will be required to show that intermittent or a reduced schedule leave is a medical necessity for leaves under paragraphs B (3), (4), and (6), above. Other documentation or certification may be required to show that such an intermittent or a reduced schedule leave is necessary in the case of a leave of a “qualified exigency” under paragraph B (5), above.
 - (2) No intermittent leave will be granted for leave taken under paragraphs B (1) and (2) above and leave for such circumstances must be taken for one continuous period of time.
 - (3) When an employee takes intermittent or reduced schedule leave, time spent working will not be counted against the employee’s FMLA entitlement.
 - (4) Employees taking intermittent or reduced schedule leave will be paid for the time they work, and the leave time away from work will be unpaid unless the employee qualifies for workers’ compensation, short-term disability, or other benefits. If an employee is a salaried employee, the Town will adjust the employee’s salary based on the amount of time actually worked.
 - (5) While an employee is on intermittent or reduced schedule FMLA leave, the Town may temporarily transfer the employee to an available alternate position that better accommodates the employee’s recurring leave and that has equivalent pay and benefits.
 - (6) Employees who take intermittent leave for a planned medical treatment have an obligation to make a “reasonable effort” to schedule the treatment so as not to disrupt unduly the Town’s operation.
- F. In the context of FMLA Leave for a serious medical condition affecting the employee or the employee’s covered family member, or a covered service member, the employee shall be responsible for providing a complete and sufficient FMLA certification. Employees are encouraged to obtain a medical certification form from the Town Manager for the health care provider to use. If possible, the employee should provide the medical certification before the leave begins. If that is not possible, the employee must provide the medical certification within fifteen (15) days of requesting leave. If the employee does not provide the required medical certification in a timely manner, the employee’s leave may be delayed. If you do not provide the certification at all, the Town will not be able to determine whether you are eligible for FMLA leave and your leave will be denied.
- (1) The Town reserves the right to authenticate or clarify any medical certification if necessary.

- (2) In the case of an employee's own serious health condition, or that of a family member's serious health condition, the Town, at its expense, may require an examination by a second health care provider designated by the Town. If the second health care provider's opinion conflicts with the original medical certification, the Town, at its expense, may require a third health care provider agreed upon by the employee and the Town to conduct an examination and provide a final and binding opinion.
 - (3) The Town may also require subsequent medical recertification. Failure to provide requested re-certifications within fifteen (15) days may result in a delay of further leave.
- G. Employees who request a leave for a "qualifying exigency" arising from an immediate family member's call to active duty or impending call or order to active duty will be required to provide a copy of the family member's active duty orders or other documentation issued by the military indicating the member is on active duty or call to active duty status in support of a contingency operation. Other documentation certifying the exigency necessitating the leave will also be required.
- H. Employees requesting a leave of absence based on a familial relationship may be required to provide reasonable documentation or statement of family relationship. This documentation may take many forms, including but not limited to a child's birth certificate, a court document, etc.
- I. All employees on approved family and medical leave are expected to report to the Town Manager any change in status in their need for such leave, or their readiness to return to work.
- J. The employee is required to utilize accrued, unused sick leave, vacation leave, and compensatory time while on an FMLA leave, unless the FMLA leave is otherwise paid through worker's compensation benefits, short-term disability benefits, or other benefits. The substitution of paid leave time for unpaid leave time does not extend the FMLA leave period. Also, the employee's FMLA leave may run concurrently with other types of leave.
- K. Maintenance of health benefits.
 - (1) During an approved FMLA leave, the Town will maintain the employee's health benefits under the same terms and conditions applicable to employees who are not on leave. If paid leave is substituted for unpaid FMLA leave, the Town will deduct the employee's portion of the health plan premium as a regular payroll deduction. If an employee's leave is unpaid, or is paid through workers' compensation, short-term disability benefits, or other benefits not provided through the Town's payroll system, the employee must pay his or her portion of the premium by making arrangements with the Town Manager. Health and other benefit coverage may be canceled if the employee's premium payment is more than (thirty) 30 days late.

- (2) If an employee elects not to return to work at the end of the leave, the employee will be required to reimburse the Town for the cost of the premiums paid by the Town for maintaining coverage during the unpaid leave, unless the employee cannot return to work because of a serious health condition or because of other circumstances beyond the employee's control. If the FMLA leave is for a condition that is covered under the Town's short- or long-term disability insurance, covered employees may apply for benefit coverage.
- L. Benefit entitlements based on length of service will be preserved at the level earned as of the commencement of the leave but will not accrue further during the leave period. For example, an employee on leave will not accrue additional sick/personal days.
- M. For an FMLA absence of seven or more consecutive calendar days an employee may be required to complete an application for short-term disability insurance benefits.
- N. Any eligible employee who returns from such leave at or before the conclusion of 12 weeks will be restored to the same position of employment as held when the leave began or be restored to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. Employees returning from extended leave of absence must notify the Town Manager at least 10 working days in advance of their projected return to work or the end of the leave period, whichever occurs first. Employees will be allowed to return to work as soon as the Town receives certification from the employee's health care provider of the employee's ability to return to work.
- O. If an employee takes leave because of his or her own serious health condition, the employee will not be reinstated until the employee provides a fitness for duty certificate from his or her health care provider confirming that the employee is medically able to resume work and perform the essential functions of his or her job. The return-to-work medical certification forms are available from the Town Manager. The Town reserves the right to clarify and authenticate such certification.
- P. Certain highly compensated employees or "key employees" may be denied restoration to their prior or equivalent position if keeping the job open for the employee would result in substantial economic injury to the Town. Key employees are those employees who are among the highest paid ten percent of employees within 75 miles of the worksite.
- Q. As stated in our Maternity leave policy, the Town provides female employees with a leave of absence for the period of temporary physical disability resulting from pregnancy, childbirth, and related medical conditions. If an employee is also eligible for FMLA leave, the employee's FMLA leave, and Maternity Leave will run concurrently. Please refer to the Town's Maternity Leave policy for more information regarding Maternity Leave. For purposes of coordinating FMLA and maternity leaves, maternity disability leave will be treated in the same manner as the FMLA leave of absence described in paragraph (4) above. Maternity disability leave begins when an employee is medically determined to be disabled and ends when medically determined to be able to return to

work. If a maternity disability leave is for the number of available FMLA leave weeks or less, the employee may take additional FMLA leave pursuant to paragraph (1) or (2) after the end of the disability period, not to exceed the number of remaining available leave weeks and will be reinstated in accordance with this FMLA policy. If a maternity disability leave exceeds the number of available FMLA leave weeks, then reinstatement will be governed by the Maternity Leave policy.

- R. In the event of any conflicts between this policy and other Town policies, the provisions of this policy will govern. The FMLA and the FMLA regulations issued by the U.S. Department of Labor contain many limitations and qualifications that are not stated in this policy. The Town reserves the right to apply the terms of the FMLA and the FMLA federal regulations.

§ 136-29. Maternity leave.

Employees affected by pregnancy, childbirth or related medical conditions shall be treated in the same manner as any employee affected by any other temporary disability. After an employee has exhausted all paid leave benefits (including paid vacation time) and/or is otherwise ineligible for paid leave benefits, she is still allowed to take an unpaid leave of absence in accordance with the Family and Medical Leave Act ("FMLA"). When an employee is physically able to return to work, her original job or a comparable job will be available to her unless business necessity makes this impossible or unreasonable.

§ 136-30. Leaves of absence. [Amended 5-27-2014 by Ord. No. 14-02]

Leaves of absence may be granted under certain circumstances. The Town Manager must be informed by the department head prior to a leave of absence being taken. The following types of leaves of absence will be allowed:

Military leave. Any Full-time or part-time employee with one or more years of service who is called to perform short-term annual active duty for training as a member of the United States Armed Forces Reserve or National Guard, shall be paid as provided herein for days spent performing such duty provided the employee would not otherwise be on layoff or leave of absence. In order to receive payment, an employee must give his/her department head and the Town prior written notice of such military duty and upon his/her return to work, furnish the Town with a written statement of the military pay received for performing such duty. Town compensation shall be the difference between what the employee's wages would ordinarily have been if the employee has been on Town duty instead of military duty. Payment shall be limited to a maximum of ten (10) working days in a calendar year.

Jury duty. The Town of Bow considers it a civic duty to serve on a jury if summoned. In the event an employee is called to serve as a juror, the Town agrees to pay the employee his/her normal compensation while on jury duty. The employee shall provide the Town with a written statement of any remuneration which he/she receives in conjunction with the jury duty and shall reimburse the Town in the amount of the remuneration.

Bereavement leave. Leaves of absence with pay shall be granted to Full-time and regular part-time employees when a death occurs in the employee's immediate family (spouse, parent, child, brother, sister, mother-in-law, father-in-law, grandparent, grandchild, stepparent, or a blood relative or ward residing in the same household). Such leave will be granted for a period not to exceed three (3) days. Leave of one day with pay will be granted in the event of the death of his/her sister-in-law, brother-in-law, aunt/uncle, or niece/nephew. In extenuating circumstances, the Town Manager may extend bereavement leave.

Unpaid leave of absence. Under certain circumstances, an unpaid leave of absence may be granted by the Town Manager. During such leave, the employee shall not accrue vacation leave or sick leave. He/she will be responsible for paying the full amount of applicable group insurance premiums and he/she will be ineligible for medical insurance waiver incentives. Unpaid leave may not be considered time in service for completing a probationary period, for step increase eligibility, or for seniority purposes.

§ 136-31. Workers' Compensation. [Amended 6-12-2012 by Board of Selectmen.]

- A. The Town of Bow shall purchase and pay the premiums for New Hampshire Workers' Compensation, the benefits of which will be available to all employees regardless of their classification.
- B. Employees must report all injuries received while on duty to their Department Head or immediate supervisor as soon as possible after an occurrence and be responsible for filing form 8WC which can be obtained from their Department Head.
- C. The Town, and/or its Workers' Compensation carrier, retains the right to request updated medical information during the disability. If a medical exam is requested, the Town or carrier shall use a qualified doctor.
- D. A Workers' Compensation claim which results in lost time must be supported by a doctor's statement outlining the nature of the disability and if possible, the anticipated length of the disability.
- E. An employee utilizing Workers' Compensation benefits shall advise their Department Head immediately upon receiving a medical clearance to return to work including work in a light duty capacity. Prior to returning to work, the employee shall provide a doctor's statement clearing the employee's return to his/her regular duties.
- F. An employee out on Workers' Compensation leave from the Town may not perform work for another employer.
- G. While on Workers' Compensation leave, employees shall continue to accumulate seniority and will remain eligible for full benefits, up to a maximum of fifty-two (52) weeks.

- H. The first several weeks are adjustment weeks when the employee is awaiting the decision of the Workers' Compensation carrier and the receipt of Worker's Compensation payments. During the initial period, the Town will continue to issue the employee a check for his/her normal base pay, less all normal deductions.
- I. All Workers' Compensation benefits received retroactively by an employee for the period during which the Town was providing normal base pay in accordance with this Article will be assigned by the employee (by "signing over" checks) to the Town to reimburse it in part for the advancing of such benefits. No employee shall thus earn more on Workers' Compensation than they would have had they been working during the period.
- J. In the event that an employee fails to sign over to the Town any Workers' Compensation check(s) due to the Town under this Article, the Town shall have no further obligation to pay the employee hereunder, unless and until the employee fulfills his/her obligation by signing over said checks to the Town.
- K. Upon acceptance of a Workers' Compensation claim and upon receipt of benefit payments, the Town will reimburse the employee for all Medicare, Social Security (if applicable), and retirement deductions taken as part of the Workers' Compensation share of the initial payments made by the Town.
- L. In the event that the Workers' Compensation check received by the employee is less than 100% of normal base pay, the Town will issue a separate check for the difference making normal required deductions for F.I.T., Retirement, FICA and voluntary deductions as previously approved by the employee, and the employee shall keep the entire Workers' Compensation check. In the event that Workers' Compensation check is greater than 100% of normal base pay, the employee shall keep the entire check, and the Town will make no supplemental payment.
- M. If an employee is denied benefits, he/she must repay the Town for all compensation received from the Town. Repayment will be accomplished by charging vacation and/or sick/comp time accumulations, both current and future, until the overpayment has been rectified, provided, however, that any repayment of sums due from accrued vacation and/or sick/comp time will not be reduced below the level where the employee cannot take at least one week of vacation and/or sick/comp time leave each year.
- N. Employees out on Workers' Compensation leave will remain responsible for payment of all their weekly health insurance co-payment, health spending, and dependent care deduction amounts. If an employee is not receiving any supplemental payment from the Town (with or without the use of vacation and or sick/comp time), they shall make arrangements with the payroll department to pay these deductions through the use of cash or checks payable to the Town's health insurance third party administrator and the Town of Bow.

- O. Employees out on Workers' Compensation leave continue to accrue leave benefits as long as the employee stays in paid status.

§ 136-32. Temporary Alternative Work. [Amended 6-26-18 by Ord. No. 18-02]

- A. In accordance with the provisions of RSA 281-A: 23-b, the Town will provide temporary alternative work opportunities for employees who suffer a work-related injury or illness. When practicable, employees will be returned to their regular duties with modifications consistent with a healthcare provider's stipulated work restrictions. In the event that such restrictions make it impracticable for an employee to perform his or her normal job duties, even with modification, the employee may be reassigned to different duties or a different work schedule and may include assignment to a different department with the Town. The specific assignment of duties shall be determined on a case-by-case basis pursuant to the healthcare provider's restrictions and the work available at the time of the injury or illness.
- B. The Temporary Alternative Work program will be available to employees for a period of time extending as long as the circumstances of the illness/injury requires, but not longer than four (4) months as dictated by the treating physician and as such duties are available.
- C. The treating healthcare provider and the ill/injured employee share the responsibility of providing the Town with the NH Workers' Compensation Medical Form. This form provides information relating to the employee's capabilities necessary to structure a temporary duty program. The department head and Town Manager will work with the employee to facilitate a safe return to work program within limitations listed by the treating physician. If necessary, the Town may contact the treating physician for additional information.
- D. After each subsequent visit, the ill/injured employee will be responsible for providing an updated medical form completed by the treating healthcare provider and returned to the Department Head or Town Manager. Additional modifications will be made to the return to work program as required.
- E. Upon release by the healthcare professional, the employee will assume normal duties of his or her regular position.
- F. Tasks appropriate for Temporary Alternative Duty
 - Document processing and/or filing; Light maintenance: cleaning, sweeping;
 - Minor repair work: small equipment, light building repairs; Inspection activities;
 - Public education outreach; Planning and project management; Other task within the scope of the medical approval to return to duty

§ 136-33. Travel expenses. [Amended 6-12-2012 by Board of Selectmen.]

- A. With Department Head approval, the Town will reimburse employees for reasonable and necessary expenditures made by employees while on official business or attending pre-approved training and educational seminars. Employees who utilize their personal vehicles for travel will be reimbursed at the current IRS mileage rate.
- B. Whenever possible the Town encourages employees to utilize town vehicles for travel and to minimize trips by coordinating with other departments or carpooling.

§ 136-34. Tuition reimbursement. [Amended 6-12-2012 by Board of Selectmen.]

- A. Any Full-time employee who has completed one year of continuous Full-time employment may request tuition reimbursement for job-related courses taken at their own initiative and on their off-duty time. Reimbursement shall be subject to Town and departmental budget restrictions.
- B. Employees shall make the request prior to registering for the course. The request shall be submitted to the department head outlining the institution offering the course, course content, tuition cost, benefit to employee and to the Town.
- C. The department head will review the request and will submit a recommendation to the Town Manager for final approval.
- D. In order to receive reimbursement, the employee must submit documentation of achieving a passing grade of “B” or better and a receipt for the tuition cost of the course.
- E. All educational contracts between the Town and employee are binding and subject to enforcement.

§ 136-35. Life insurance. [Amended 6-11-2019 by Ord. No. 19-05]

- A. The Town will provide and pay for group term life insurance to all Full-time employees. The amount of coverage shall be equal to 100% of the employee’s base annual wages, with a minimum of \$50,000. A copy of the life insurance policy shall be provided to each qualified and covered employee.
- B. Life insurance coverage shall become effective on the first day of the month following an employee’s date of hire. If an employee’s date of hire is on the first day of a month, coverage will become effective immediately.
- C. Life insurance coverage expires on the last day of the month following an employee’s separation of service or termination.

§ 136-36. Health insurance. [Amended 6-11-2019 by Ord. No. 19-05]

- A. Full-time employees are eligible for group health insurance coverage. Health insurance plans and employer contributions amount and employee contribution amounts are subject to change. Current employer and employee contribution rates are available from the Finance Department.
- B. Regular Part-time employees opting for health insurance coverage are responsible for paying 100% of the premium cost for coverage. Health insurance plans offered are subject to change. Current premium rates are available from the Finance Department.
- C. Full-time employees, who are covered by another health insurance plan, may elect to waive coverage in the Town group health insurance plan and receive a cash incentive to be paid on a weekly basis as part of the employee's paycheck. The current incentive amounts are available from the Finance Department.
- D. Health insurance coverage will become effective on the first day of the month following an employee's date of hire. If an employee's date of hire is on the first day of a month, health insurance will become effective immediately.
- E. Health insurance coverage expires on the last day of the month following an employee's termination. If an employee's termination is effective on the last day of a month, health insurance coverage expires immediately.
- F. Unless a marriage, civil union, adoption, or birth is appropriately reported to the Town within sixty (60) calendar days of the event, a related spouse or child cannot be added to an employee's health insurance coverage until the next plan renewal date.
- G. Employees are responsible for reporting within thirty-one (31) calendar days a divorce, death, or other event, which would reduce their group health insurance coverage.

§ 136-37. Dental insurance. [Amended 6-11-2019 by Ord. No. 19-05]

- A. Full-time employees are eligible for coverage in the Town's group dental insurance plan. Dental plans and employee or employer contribution rates are subject to change. Current employer and employee contribution rates are available from the Finance Department.
- B. Regular Part-time employees opting for dental insurance coverage are responsible for paying 100% of the premium cost for coverage. The dental insurance plans offered are subject to change. Current premium rates are available from the Finance Department.
- C. Dental insurance shall become effective on the first day of the month following an employee's date of hire. If an employee's date of hire is on the first day of a month, dental insurance will become effective immediately.

- D. Dental insurance expires on the last day of the month in which an employee's termination occurs. If an employee's termination is effective on the last day of a month, dental insurance expires immediately.
- E. Unless a marriage, civil union, adoption, or birth is appropriately reported to the Town within sixty (60) calendar days of the event, a related spouse or child cannot be added to an employee's dental insurance coverage until the next plan renewal date.
- F. Employees are responsible for reporting within thirty-one (31) calendar days a divorce, death, or other event, which would reduce their group dental insurance coverage.

§ 136-38. Short Term disability insurance. [Amended 5-27-2014 by Ord. No. 14-02]

- A. The Town will provide and pay for short-term disability insurance coverage for Full-time employees. This coverage will provide, for a fifty-two (52) week period, a weekly benefit equal to the lesser of \$750 and 66.67% of the employee's base weekly wage beginning with the first day of an accident and the eighth day of an illness.
- B. Work-related injuries or illnesses are not covered by short-term disability insurance but by workers compensation insurance.
- C. Disability insurance shall become effective on the first day of the month following an employee's date of hire. If an employee's date of hire is on the first day of a month, disability insurance will become effective immediately.
- D. Disability insurance expires on the last day of the month following an employee's termination. If an employee's termination is effective on the last day of a month, disability insurance expires immediately.
- E. Employees out on Short Term Disability will continue to accrue leave benefits as long as the employee stays in paid status.
- F. Employees are not eligible for holidays which may occur while he/she is receiving short-term disability payments.
- G. If an employee is denied benefits, he/she must repay the Town for all compensation received from the Town. Repayment will be accomplished by charging vacation and/or sick/comp time accumulations, both current and future, until the overpayment has been rectified, provided, however, that any repayment of sums due from accrued vacation and/or sick/comp time will not be reduced below the level where the employee cannot take at least one week of vacation and/or sick/comp time leave each year.

- H. Employees out on Short Term Disability will remain responsible for payment of all their weekly health insurance co-payment, health spending, and dependent care deduction amounts. If an employee is not receiving any supplemental payment from the Town (with or without the use of vacation and or sick/comp time), they shall make arrangements with the Finance Department to pay these deductions through the use of cash or checks payable to the Town's health insurance third party administrator and the Town of Bow.
- I. If an employee has exhausted all Family and Medical Leave Act leave, the decision to permit him/her to return to work after a short-term disability leave will be based upon the ability of the employee to perform his/her essential job functions with reasonable accommodation, if necessary, unless such accommodations would cause undue hardship to departmental operations.
- J. Before returning to work from Short Term Disability leave, an employee must provide his or her supervisor, and the Finance Department, with a release to return to work by a health care provider indicating that he/she is able to perform the essential functions of the job with or without reasonable accommodations. An employee who fails to provide a release to return to work as of their first scheduled workday after a medical or other approved leave will not be allowed to return to work and subsequent absences will be deemed unexcused or unscheduled, which may result in termination of employment.

§ 136-39. Retirement. [Amended 6-12-2012 by Board of Selectmen.]

- A. Employees who continually work 35 hours or more per work week are required by NH Statute to be enrolled in the NH Retirement System. Fire Department personnel and uniformed Police Department personnel shall be enrolled in Group II, while all other employees shall be enrolled in Group I. Related employee payroll deductions are established by NH Statute.
- B. Full-time and Regular Part-time employees are eligible for participation in one of the following IRS 457 deferred compensation plans: ICMA, Nationwide, and VALIC. Participation in these plans is voluntary, and all contributions to the plan are made through employee payroll deductions.

§ 136-40. COBRA.

The Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") provides eligible employees and their covered dependents with the opportunity to continue medical and dental insurance for a period of time, at their own expense, if they would otherwise lose coverage for certain qualifying reasons.

Bow Town Code
Chapter 136
Personnel

Appendix A

Town of Bow, New Hampshire

DRUG AND ALCOHOL POLICIES AND PROCEDURES

Federal Motor Carrier Safety Regulated Drivers

I. PURPOSE OF POLICY

Compliance with DOT Regulations 49 CFR Part 382. To provide a safe, drug and alcohol-free work environment.

II. POLICY STATEMENT

- No driver shall consume drugs or alcohol while on company time or property. This includes unpaid meals and break periods.
- No driver may consume alcohol four (4) hours prior to on-duty time as per 382.205
- No driver shall possess or be in control of any alcoholic beverage or controlled substance within any company building or vehicle.
- No driver will participate in the unauthorized use, abuse or sale of any controlled substance.
- We do not permit the use or sale of any controlled substance at any time.
- Participation in Town of Bow's drug and alcohol testing program is a requirement of all drivers that qualify.

III. APPLICABILITY

- All drivers who operate Commercial Motor Vehicles (CMV) must be subject to testing in 382.103.
- All drivers who hold a Commercial Driver's License (CDL) and drive vehicles in the following categories:
 - a. Vehicles with a gross weight rating of 26,001 pounds or more.
 - b. Vehicles with a gross combined weight rating of 26,001 or more pounds inclusive

of a towed unit with a gross vehicle weight rating of 10,000 pounds.

- c. Vehicles designed to transport 16 or more passengers.
- d. Vehicles of any size used to transport materials found to be hazardous and require the vehicle to be placarded under Hazardous Materials Regulation 49 CFR Part 172, subpart F.

IV. TESTING

- No driver shall report for duty or remain on duty that requires performing a safety-sensitive function when the driver uses any controlled substance, except when the use is at the instruction of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV as per 382.213.
- Although this policy prohibits the use of any controlled substance not lawfully prescribed by a physician, any drug test required under this policy will analyze an individual's urine (DOT required) to test for the presence of the following substances:

DOT:

1. Marijuana
 2. Opioids
 3. Cocaine
 4. Phencyclidine
 5. Amphetamines
- The Town of Bow has the right to do non-DOT substance abuse testing in addition to the DOT required testing.

Non-DOT - Testing will be analyzed per individual by urinalysis hair follicle, saliva, and/or sweat. Drugs to be tested for are the five above plus additional substances if desired, but not required and not limited to:

(At the discretion of the employer per individual circumstances)

Benzodiazepines
Barbiturates
Methadone

Methaqualone
Propoxyphene
Fentanyl
Buprenorphine

- Alcohol screening tests are performed via breath analysis or saliva testing. A trained Breath Alcohol Technician (BAT) or Saliva Test Technician (STT) using the approved testing device; QED, (Quantitative Enzymes Diagnostics) will perform these tests.
- A trained BAT will perform confirmation testing on an evidential breath- testing device that is on the National Highway Traffic Safety Administration's Conforming Products List.

V. REASONS FOR TESTING

a. Pre-employment (382.301)

- Prior to the first time a driver performs a safety-sensitive function, or any duty for the company, he/she will undergo testing for controlled substances and will not be allowed to perform any such function unless a verified negative test result is received from the Medical Review Officer (MRO). If a pre-employment-controlled substance test indicates a confirmed positive, the company will rescind the employment offer.

b. Post-accident (382.303)

- Any incident at the discretion of the Designated Employer Representatives (DER) in addition to the requirements of 382.303.
- As soon as it is practicable following an occurrence involving a Commercial Motor Vehicle (CMV) operating on a public road in commerce, the Company Employer shall test for alcohol and controlled substances each driver who:
 - a. Performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - b. Receives a citation under State or local law for a moving violation arising from the accident if the accident involved:
 - 1. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or

2. One or more vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be towed.
- Per DOT regulations, drivers are prohibited from using alcohol for eight hours following any accident or until the required post-accident alcohol test is administered, whichever occurs first. Testing will be performed as soon as possible, but not more than eight (8) hours after the accident for alcohol and within thirty-two (32) hours for controlled substances.
 - a. As per Part 382.303 D1, if an alcohol test is not completed within 2 hours following an accident, the Employer must document the reason why the test was not administered. After 8 hours if the test is not administered, the Employer must cease attempts to test and document why the test was not administered.
 - b. As per Part 382.303 D2, if a drug test is not completed within 32 hours following an accident, the Employer is responsible for ceasing attempts to test and documenting the reason why the test was not administered.
 - All drivers will immediately contact a supervisor/employer for instructions. The driver will not drive to the testing facility. Either, the testing collector will travel to the accident, if applicable, or the driver will be brought to the testing facility.
 - c. Random Testing (382.305)
 - All drivers subject to the Federal Motor Carrier Safety Regulations as outlined under the APPLICABILITY section of this policy shall be required to submit to alcohol and substance abuse testing in a random program. The program shall be outlined as:
 - The substance abuse testing program will be managed by Onsite Drug Testing of New England, LLC (ODTNE) located at 2 Industrial Park Drive Concord, New Hampshire 03301. ODTNE will perform all aspects of program management including, but not limited to, random selection, blind samples, quarterly statistic reports, scheduling and/or collecting samples.
 - Drug screen collections and alcohol tests will be performed at The Town of Bow, a worksite of The Town of Bow that has the proper accommodations, a collection site or at Onsite Drug Testing of New England, LLC, Concord N.H.

- Random selection and subsequent testing will be performed in accordance with the pre-determined percentage rates set forth by the Federal Motor Carrier Safety Administration. Testing rates are subject to change annually. These tests will be spread throughout the year and shall be performed with little or no notice to the drivers. When the driver is notified of the need to be tested, he/she shall be immediately ready or proceed directly to the collection site and submit to the required testing.
- As a practical matter relating to random selections, certain individuals will be selected multiple times and others very infrequently, if at all, over a period of years. This does not indicate a bias for a specific individual; this is a statistical characteristic of randomness. Individuals, even those who are selected as many as four times in a year, should understand they are not identified in any way to have a higher probability of actual selection.
- After a driver is selected randomly, his/her name is returned to the Consortium for potential future selection, and a chance of being selected in the future will not be changed.

d. Reasonable Suspicion (382.307)

- Per the DOT regulations 382.307d., reasonable suspicion alcohol testing shall only be required before, during or after the driver is performing a safety-sensitive function.
- Per the DOT regulation 382.307, whenever the Company has reasonable suspicion to believe that a driver has violated any alcohol or controlled substance prohibition contained in this policy, it will require the driver to submit to an alcohol and/ or controlled substance test. Any suspicion shall be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic effects of controlled substances. These observations will only be made by a supervisor or company official who has received appropriate training and will be documented by that individual in a Supervisor's Report of Reasonable Suspicion within twenty-four (24) hours after his/ her observation. Whenever possible, two (2) DER's shall concur with regards to the observations about the reasonable suspicion.
- All testing shall be conducted as soon as possible after the determination to test has been made. If the driver needs to be transported to the collection site, it will be by a supervisor and the driver will not be allowed to perform any safety sensitive-function or drive any company vehicle until negative results are confirmed. Appropriate measures will be taken to transport the driver home after the test has been taken to ensure the safety of the driver and the general public. Such measures may include

but are not limited to calling a family member, calling a taxi or driving him/her home.

e. Return to Duty Testing (382.309)

- FMCSR Part 382.309 says each employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by Subpart B of this part concerning alcohol, the driver shall undergo a return to duty alcohol test with a result indicating an alcohol concentration of less than 0.02 units.

and

- Each employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by Subpart B of this part concerning controlled substances, the driver shall undergo a return to duty controlled substance test with a result indicating a verified negative result for controlled substance use.

f. Follow-up Testing (382.311)

- Following a determination under Part 40.289a., that a driver is in need of assistance in resolving problems associated with alcohol misuse or use of controlled substances, each employer shall ensure that the driver is subject to unannounced follow-up alcohol and/or controlled substance testing as directed by a DOT certified Substance Abuse Professional (SAP) in accordance with the provision of Part 40.289b. Follow-up testing shall be conducted only when the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions.
- The driver is responsible for any costs accrued by testing positive, including follow-up testing.
- If after 12 months, the driver is still in the follow-up program, the Employer reserves the right to terminate employment.
- Following a second confirmed positive drug and/or alcohol screen, the driver will be terminated.
- If the driver is terminated during a follow-up program, they are required by the FMCSA regulations to continue in a program while working for any Federal Motor Carrier.

g. Refusal to Submit: (382.211)

- Any driver who refuses to submit to any required test under any circumstance shall be prohibited from performing any safety-sensitive function and shall be subject to discipline as outlined in CONSEQUENCES OF POSITIVE TEST RESULTS.
- Refusal to submit (Definitions 382.107) shall be determined by any of the following circumstances, but are not limited to:
 - a. Failing to provide adequate breath, saliva or urine for testing without a valid medical explanation after the driver has received notice of a required test as well as refusal to submit to a medical evaluation as required by Subpart 40.193d. (In the case of a Pre-Employment drug test, the driver is deemed to have refused to test on this basis only if the Pre-Employment test is conducted following a contingent offer of employment.)
 - b. Engaging in conduct that disrupts the collection process.
 - c. Engaging in any conduct that creates reason to believe that a urine specimen has been altered, substituted or adulterated for the purpose of affecting the validity or accuracy of a controlled substance test result. This includes refusing to submit to an observed or monitored collection.
 - d. Failure to appear for any test, except Pre-Employment within a reasonable time as determined by Onsite Drug Testing of New England, LLC after being directed by the employer.
 - e. Leaving the scene of an accident without a valid reason before tests have been conducted.
 - f. Failure to remain at the testing site, until the testing procedures are completed.
 - g. Failure to submit to a second test that the Employer or Collector has directed the driver to take.
 - h. A result reported by the MRO as being a verified, adulterated or substituted test.

VI. ALCOHOL & DRUG TESTING PROCEDURES (Part 40, 382 and 383)

- All procedures for drug and alcohol collection and testing shall be performed in accordance with FMCSA regulations Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs), 382

(Controlled Substance and Alcohol Use and Testing) and 383 (Commercial Drivers License Standards; Requirements and Penalties).

- Specimen collection procedures are as follows:
 - a. Positive photo ID is required either by a Federal, State or Local Government or by the DER of the Company.
 - b. Driver will be directed to remove outer clothing, including jacket, coat, hat etc. in addition to emptying their pockets of items that could adulterate the specimen. Driver is allowed to keep their wallet. A receipt will be issued for items left with the collector upon request.
 - c. The driver will be advised that failure to comply with the directions of the collector constitutes a refusal to test.
 - d. The driver will be instructed to wash their hands prior to the collection and not again until the specimen has been given to the collector.
 - e. The driver will choose a collection kit to be used for specimen.
 - f. The driver will be instructed to provide a sufficient specimen and is given a reasonable time limit to provide the specimen.
 - g. Driver will be instructed to initial the sample bottles, fill in their information on the chain of custody in view of the collector.
 - h. The driver will be given copy 5 of the chain of custody.
 - i. The driver will be instructed to leave the collection facility.
- A split sample will be performed as per the DOT regulations to allow a donor that has tested positive to request the second sample be sent to a secondary laboratory for verification.
- All specimens will be collected at locations that afford privacy for the driver. Providing a urine sample will not be directly observed or monitored unless the driver's conduct indicates an attempt to tamper with or adulterate the specimen.
- If the specimen temperature is outside the acceptable range, the driver will be required to submit to a new collection using direct observation procedures as per 40.67.

- Urine samples will be tested for drugs at laboratories certified by the US Dept. of Health and Human Services (DHHS).

VII. TESTING RESULTS (Subpart D, 382.401)

- All controlled substance and alcohol test results will be reported and maintained in a confidential manner and only shared with those who have a bonafide need to know, the DER, Onsite Drug Testing of New England, LLC and Department of Transportation Agents.
- A negative-dilute specimen is considered a confirmed negative and no further action is needed.
- A negative drug or alcohol test result is indicative of having passed the test. No further action needs to be taken.
- Although a DOT positive alcohol result is defined as a confirmation alcohol test of greater than 0.04 units and a drug test determined and reported as positive by the MRO, The Town of Bow's policy defines a positive as a confirmation alcohol test of greater than or equal to 0.02 units and a drug test determined and reported as positive by the MRO.
- All drug test results, positive or negative, will be reviewed by a MRO prior to being reported to the employer. In the case of a positive test result, the MRO will contact the driver and discuss the results prior to reporting them to the employer. If the driver can show a legitimate medical reason for testing positive, the MRO will report the result as negative to the employer.
- A positive controlled substance result means that the driver has failed the test and needs to be removed from safety-sensitive functions immediately. Within 72 hours, the driver may opt to have the split drug test sample sent for re-test. This must be done in writing. If the split result is other than positive for the same substance, the test is canceled, and the driver may return to his safety-sensitive function.

VIII. CONSEQUENCES OF POSITIVE TEST RESULTS (Part 40, Subpart 0)

- The DOT requires that anyone who refuses to take a test be treated as though the test was positive and all consequences for a positive test apply.
- A driver who has a verified positive test will be provided information by the employer on where to go to get guidance regarding substance abuse. All drivers that test positive must be evaluated by a substance abuse professional as per 382.503.

- The consequences for the first verified positive result will be:
 - a. Immediate unpaid suspension.
 - b. Meet with a SAP for evaluation and referral.
 - c. Follow the SAP's referral including but not limited to a Substance Abuse class.
 - d. Submit to a return-to-duty test (drug and/or alcohol) of which the results are negative.
 - e. Submit to a minimum of 6 follow-up tests maintained by the SAP and DER within the first year following the evaluation. (Follow-up tests are in addition to being selected for random testing and are paid by the driver. They do not need to be completed prior to returning to duty.)
 - f. Upon completion of the SAP referral program, including a negative drug and/or alcohol screen and the scheduling of an educational class or counseling, (302.605 and Part 40, Subpart 0), the Employer will allow the driver to return to duty.
- Consequences for the second verified positive result will be termination.

IX. GENERAL REQUIREMENTS

- All drivers must read, understand and sign the Alcohol and Drug Testing, Driver Awareness and Training Handbook to meet requirement 382.601.
- The receipt with signature will be kept in the driver qualification file or personnel file.
- All drivers are required under Part 382.601b.11 to report any other driver's or co-driver's behavior showing any signs and symptoms of an alcohol or controlled substance problem to their immediate supervisor.
- The Town of Bow shall ensure that each driver signs a statement certifying that he/she has received a copy of the materials described in 382.601d. (Alcohol Misuse and Controlled Substances Use, Training and Referral).
 - a. If a prospective driver refuses to acknowledge receipt of a copy of the materials listed above, the driver will not be hired.

References; Federal Motor Carrier Safety Regulations Handbook Policy written by Onsite Drug Testing of New England, LLC.

Kimberly Argrew, President of Onsite Drug Testing of New England has approved this policy.

Name: *Kimberly Argrew*

Date: 5/16/18

Signing the "acknowledgement of receipt and review of the employer's-controlled substances and alcohol policy and educational materials form" is a requirement of Part 382.601 (d).

Any questions associated with this policy should be directed to the Designated Employer Representative (DER).

The DER is:

DAVID STACK

The DER contact information is:

Town of Bow David Stack

10 Grandview Road

Bow, NH 03304

P: 603-223-3910

dstack@bownh.gov

Date:

Town of Bow Representative:

DJ

8/5/20

PERSONNEL PLAN

Addendum to FMCSA Drug and Alcohol Testing Policy FMCSA Drug and Alcohol Testing Clearinghouse

DRUG AND ALCOHOL CLEARINGHOUSE (Part 382.701)

The following personal information collected and maintained under this part shall be reported to the clearinghouse:

- A verified positive, adulterated, or substituted drug test result.
- An alcohol confirmation test with a concentration of 0.04 or higher.
- A refusal to submit to any test required by subpart C of this part.
- An employer's report of actual knowledge, as defined at 382.107;
 - a. On duty alcohol use pursuant to 382.205;
 - b. Pre-duty alcohol use pursuant to 382.207;
 - c. Alcohol use following an accident pursuant to 382.209; and
 - d. Controlled substance use pursuant to 382.213;
- A substance abuse professional (SAP as defined in 40.3 of this title) report of the successful completion of the return-to-duty process.
- A negative return-to-duty test; and
- An employer's report of completion of follow-up testing.

Employer Name: _____

Employer DER & Date: _____

Driver Printed Name & Date: _____

Driver Signature: _____