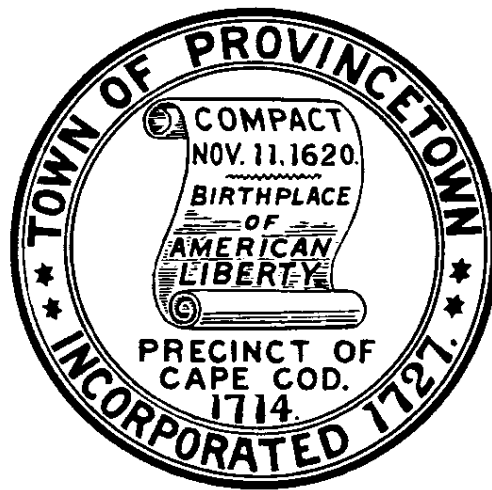


TOWN OF PROVINCETOWN



PERSONNEL RULES

*Adopted by the Personnel Board
and approved by the Town Manager
in accordance with §6-11-2
of the Provincetown Charter*

TOWN OF PROVINCETOWN PERSONNEL RULES

AUTHORITY
Provincetown Charter, §6-11-2

ENACTMENT
Administrative Directive No. 91-7, effective July 1, 1991

Last updated: August 2017

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Chapter 1 GENERAL PROVISIONS

Article 1. *Authorization*

1-1-1 These rules are adopted pursuant to Massachusetts General Laws, Chapter 41, sections 108A and 108C, the Provincetown Charter (Revised 1990), Section 6-11-2, and the Provincetown Personnel By-law.

Article 2. *Definitions*

1-2-1 Employee: A person employed by the Town of Provincetown for regular payment for his or her work.

1-2-2 Full-time Permanent Employee: An employee scheduled to work not less than forty (40) hours per week for the entire fiscal year.

1-2-3 Part-time Permanent Employee:

1-2-3-A An employee scheduled to work at least twenty (20) but less than forty (40) hours per week for the entire fiscal year.

1-2-3-B An employee scheduled to work fewer than twenty (20) hours per week for the entire fiscal year.

1-2-4 Full-time Seasonal Employee: An employee scheduled to work not less than forty (40) hours per week for less than the entire fiscal year.

1-2-5 Part-time Seasonal Employee: An employee scheduled to work at least twenty (20) but less than forty (40) hours per week for less than the entire fiscal year.

1-2-6 Full-time Temporary Employee: An employee scheduled to work not less than forty (40) hours per week for a period not in excess of six weeks.

1-2-7 Part-time Temporary Employee: An employee scheduled to work at least twenty (20) but less than forty (40) hours per week for a period not in excess of six weeks.

1-2-8 Contract Employee: An employee whose conditions of employment are governed by written contract other than the collective bargaining agreement between the Town and union employees.

1-2-9 Department Head: An employee designated by the Town Manager to be in charge of operations and activities of a department. The Town Manager shall assume the duties of a department head with respect to the department heads.

1-2-10 Exempt/Salaried employee: An employee whose position is exempt from the federal Fair Labor Standards Act (FLSA), and is paid an annual salary.

1-2-11 Non-exempt/Hourly employee: An employee whose position is not exempt from the federal Fair Labor Standards Act (FLSA), and is paid an hourly wage.

1-2-12 Substitute On-call Relief Employee: An employee selected from an on-call relief list established in accordance with section 4-1-10 of the General By-laws to fill a permanent job title on a substitute basis during a permanent employee's temporary absence.

Article 3. *Application of Rules*

1-3-1 These rules shall apply to every Town employee except an elected official, a contract employee, or an employee of the school department.

1-3-2 To the extent that these rules are inconsistent with federal or state law, the federal or state law shall govern.

1-3-3 To the extent that these rules are inconsistent with the collective bargaining agreement between the Town and union employees, and apply to an employee covered by that agreement, the agreement shall govern.

Article 4. *Waiver of Rules*

1-4-1 These rules shall not be waived except on account of unusual circumstances.

1-4-2 A waiver of these rules which will not result in an expenditure of funds shall require the written assent of the Town Manager and three members of the personnel board.

1-4-3 A waiver of these rules which will result in an expenditure of funds shall require the written assent of the Town Manager, three members of the personnel board, and three members of the board of selectmen.

**Chapter 2
ADMINISTRATION**

Article 1. *Duties of the Town Manager and Personnel Board*

2-1-1 The Town Manager and personnel board shall administer and enforce these rules and invalidate action which is inconsistent with these rules.

2-1-2 The Town Manager shall meet with the personnel board at least once a year to discuss the efficacy of these rules and to suggest amendments thereto.

2-1-3 The Town Manager may amend these rules in conjunction with the personnel board as provided in the Provincetown charter (revised 1990), section 6-11-2.

2-1-4 The Town Manager may propose amendments to the classification and compensation plan pursuant to Chapter 11 of these rules.

2-1-5 The Town Manager shall adopt standardized administration forms and practices to facilitate maintenance of proper records.

2-1-6 The Town Manager or his designee shall establish and maintain an individual personnel file for each employee, and centralize and systematize all such files.

Article 2. *Records*

2-2-1 An individual personnel file shall include any record which is pertinent to the employee's employment, including the job description; his/her resume, application, examination results, or training records; records pertaining to his/her past employment; records pertaining to personnel actions including his/her appointment, promotion, demotion, transfer, separation, layoff, reclassification of rate of pay, or change of title; and

records of disciplinary action.

2-2-2 An individual personnel file shall not include an employment record which is required by law to be maintained separately.

2-2-3 An individual personnel file may be reviewed only by the employee who is the subject of the file; persons authorized in writing by such employee; the Town Manager or his designee; the department head of the employee's department; and other persons who must have access to the file to do work necessary to administer the personnel system, but only to the extent expressly authorized by the Town Manager or his designee.

2-2-4 No person shall make copies or release information from an individual personnel file to a person other than one set forth in section 2-2-3, unless the subject of the file has provided written authorization.

2-2-5 An employee may review and make copies from his/her individual personnel file only if in the presence of the Town Manager or his designee, or the department head of the employee's department, or a person acceptable to both the Town Manager or his designee and the employee.

2-2-6 The Town Manager or his designee shall make suitable arrangements to facilitate the review of an individual personnel file by the subject of the file.

Chapter 3 RECRUITMENT AND APPOINTMENT

Article 1. *Recruitment of Candidates*

3-1-1 If a position is vacant or will shortly be vacant, the Town Manager shall prepare a job vacancy notice.

3-1-2 The job vacancy notice shall be based upon the existing job description and shall include the job title, major duties of the position, qualifications, salary and wages, hours of work, reporting relationships, a closing date for applications, and application instruction.

3-1-3 The job vacancy notice shall be posted for one week on the Town hall bulletin board, and published in a newspaper of general circulation in the Town at least two consecutive weeks.

3-1-4 The Town Manager may use employment agencies, employee referrals, trade and professional journals, and other sources in the recruitment of candidates.

3-1-5 A candidate shall submit an employment application form and/or resume and cover letter and return such to the office of the Town Manager on or before the closing date for applications.

Article 2. *Selection of Employees*

3-2-1 The Town Manager shall review all employment applications related to the opening, and determine the candidate or candidates who are worthy of further consideration based on merit and fitness demonstrated by examination and other evidence

of competence.

3-2-2 The Town Manager may designate an interview team to assist him/her with the selection procedure.

3-2-3 The Town Manager and/or the department head shall contact each such candidate's former employers, supervisors, and other references, to the extent which is appropriate and reasonably possible.

3-2-4 The Town Manager and/or the department head shall review all employment application forms, examination results, reports from former employers, supervisors, and other references relating to each such candidate, and determine the candidate or candidates who are worthy of further consideration.

3-2-5 The Town Manager shall obtain the approval of the board of selectmen prior to the offer of employment for positions of accountant, assessor, assistant Town Manager, clerk, licensing agent, police chief, tax collector, Town counsel, and treasurer.

3-2-6 The Town Manager shall prepare a written notice of appointment stating the salary, the starting date, any unique or unusual conditions of employment, and any other relevant information, and send the same to the successful candidate and the appropriate department head.

3-2-7 The successful candidate shall notify the Town Manager within one week of the date of the notice of appointment that he/she has accepted or rejected the appointment, and if the candidate does not so respond then he/she will be deemed to have rejected the appointment.

Chapter 4 CONDITIONS OF EMPLOYMENT

Article 1. *Orientation of New Employees*

4-1-1 The Town Manager shall give a new employee a copy of these rules.

4-1-2 The Town Manager or his/her designee shall conduct periodic orientation sessions for new employees to provide information on their benefits, rights, and obligations as employees.

4-1-3 Department heads shall provide on-site training and orientation regarding specific rules, regulations, policies and procedures of the employee's department, including safety policies and procedures.

Article 2. *Probationary Periods*

4-2-1 A newly appointed employee who fails to report on the starting date for employment shall be removed, shall have no right of appeal, and the position shall be vacant.

4-2-2 All newly appointed employees shall be required to complete successfully a probationary period commencing with the employee's starting date, and to continue for a six-month period.

4-2-3 The probationary period shall be used by the Town Manager and the employee's department head to observe and evaluate the employee's performance, attitude, conduct, and work habits.

4-2-4 Upon the expiration of the probationary period the Town Manager shall notify the employee that (a) the employee's performance meets satisfactory standards and that he/she will be retained; or (b) the employee's performance does not meet satisfactory standards and that he/she is discharged.

4-2-5 In the case of a promotion or transfer from another position subject to these rules, there shall probationary period of ninety days. Upon the expiration of the probationary period the Town Manager shall notify the employee that (a) the employee's performance meets satisfactory standards and that he/she will be retained; (b) the employee's performance does not meet satisfactory standards and that he/she is returned to his/her former position; or (c) the employee's probationary period shall be extended, but in no case shall a promoted or transferred employee's entire probationary exceed six months.

Article 3. *Resignation*

4-3-1 An employee who intends to resign shall give notice of his/her intention to his/her department head at least two weeks prior to the resignation, and the department head shall so inform the Town Manager.

4-3-2 An employee who intends to resign may be required to complete forms and undergo an exit interview.

Article 4. *Hours of Work/Non-exempt Employees*

4-4-1 The workweek for non-exempt employees shall be forty (40) hours per week.

4-4-2 Non-exempt employees shall record all hours worked and all hours of paid leave time used on a timesheet prescribed by the Town Manager, which timesheet shall be submitted for approval by the department head.

4-4-3 Non-exempt employees shall not work more than forty (40) hours per week without the prior written approval of the department head. Hours in excess of forty (40) in the same week shall be compensated at one and one half (1 1/2) times the equivalent hourly wage.

Article 5. *Hours of Work/Exempt Employees*

4-5-1 The workweek for exempt employees shall be as required, which shall mean the total number of hours needed to perform the duties of the position as determined by the Town Manager, which number shall not normally be less than forty (40) hours per week.

4-5-2 Exempt employees shall record days worked and all hours of paid leave time on a timesheet prescribed by the Town Manager, which timesheet shall be submitted for approval by the Town Manager.

4-5-3 Exempt employees are not entitled to overtime compensation. As a general

rule, no compensatory time off may be taken in lieu of excess hours worked. However, in extreme situations where an employee is required by the Town Manager to work frequent and extended periods in excess of the normal hours required to perform the duties of the position, he/she may apply to the Town Manager for limited amounts of paid time off not charged to any account. The decision of the Town Manager shall not be subject to appeal.

Chapter 5 STANDARDS OF CONDUCT

Article 1. *Ethics*

5-1-1 An employee shall not create the impression that he or she grants preferential treatment, or exploits public office.

5-1-2 An employee shall be familiar with the Massachusetts conflict of interest law, G.L., c. 268A.

5-1-3 An employee shall not violate the Massachusetts conflict of interest law.

5-1-3-1 *Financial Interest in Particular Matters (MGL C.268A,§19): Make Disclosure to Town Manager and Obtain Permission to Participate.* Pursuant to MGL C.268A,§ 19, no Town employee shall, without obtaining the prior written approval of the Town Manager, participate in their official capacity in any particular matter involving a financial interest involving the employee, his/her immediate family or partner, a business organization in which he/she serves as officer, directive, director, trustee, partner or employee, or any person or organization with whom the appointee is negotiating or has any arrangement concerning prospective employment. In requesting permission of the Town Manager, the employee shall advise the Town Manager of the nature and circumstances of the particular matter and make a full disclosure of the financial interest. The employee may participate on said particular matter only after the Town Manager makes a written determination that said financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee.

5-1-3-2 *Appearance of Conflict (MGL C.268A,§23): Make Disclosure to Town Manager Prior to Official Action.* The Conflict-of-Interest Law provides that public officials and employees must avoid conduct that creates a reasonable impression that any person can improperly influence or unduly enjoy their official favor, or that they are likely to act (or fail to act) because of kinship, rank, position or undue influence by any party or person. A reasonable impression of favoritism or bias may arise when a public official acts on matters affecting a friend's, a business associate's or a relative's financial interest. Notwithstanding, MGL C.268A,§23 allows public officials to act on matters, even if it creates the appearance of a conflict, if they openly admit all the facts surrounding the appearance of bias prior to any official action. Employees must make such disclosures in writing to the Town Manager, and the disclosure must be kept available for public inspection.

5-1-3-3 *Procedures for Disclosures.* When an employee makes a disclosure to the Town Manager under MGL C.268A, §19 or §23, he/she shall first obtain the appropriate

disclosure form from the Town Clerk. Once filled out by the employee and approved by the Town Manager, a disclosure form under MGL C.268A,§19 shall be filed by the Town Manager with the Town Clerk. The employee shall not participate in the particular matter until and unless the Town Manager has granted written permission for the employee to do so, and has filed a copy of such written permission with the Town Clerk. Once filled out by the employee, a disclosure form under MGL C.268A,§23 shall be filed in duplicate with the Town Clerk and with the Town Manager. The Town Clerk shall maintain a separate file of disclosure statements which shall be kept available for public inspection.

5-1-4 Nepotism Policy. The state Conflict of Interest Law, Mass. G.L. c. 268A, applies to the hiring and managing of employees, and all supervisors and department heads are reminded to be familiar with the Conflict of Interest Law in this regard, and in particular, to the State Ethics Commission's Advisory No. 86-02 (as it may be amended) which addresses questions of nepotism.

In particular, supervisors and department heads may not participate in any matter in which an immediate family member (defined under c. 268A as the employee and his/her spouse, and their parents, children, brothers and sisters) has a financial interest.

This would generally include hiring and firing decisions, as well as questions of performance evaluations, demotions or suspensions, or even day-to-day active supervision of an employee.

Moreover, public officials or employees are cautioned against using their position to secure an unwarranted privilege of substantial value for themselves or others, or from acting in a manner which gives a basis for the impression either that they are improperly influenced by another person, or that someone is unduly enjoying their favor because of kinship. The appearance of a conflict is prohibited under the state Conflict of Interest Law to the same extent as actual conflicts of interest.

When an immediate family member is employed in the same department as a supervisor or department head, or whenever the supervisor or department head has any personnel responsibilities over the immediate family member, the supervisor or department head should contact the Town Manager, to establish appropriate protocols with respect to supervision of the family member as a Provincetown employee.

Article 2. *Politics*

5-2-1 An employee shall not engage in political activity during his/her working hours.

5-2-2 An employee shall not engage in political activity principally directed toward other employees, on Town owned property which is then being used as a work area.

Article 3. *Safety*

5-3-1 Department heads shall write safety guidelines and make them available to employees.

5-3-2 Department heads and supervisors shall assume full responsibility for the

safety of working areas; recommend correction of deficiencies noted in work procedures, facilities, safety clothing or equipment or attitudes of employees; insure the availability and utilization of appropriate protective clothing and equipment; observe working conditions and field procedures to prevent possible safety hazards; shall personally investigate and report all accidents promptly; and shall personally complete the supervisor's report submitted to the Loss Control Coordinator.

5-3-3 An employee shall observe all safety rules, operating procedures and safety practices, and wear and use safety clothing or equipment which is furnished for his/her job.

5-3-4 An employee shall promptly report unsafe areas, conditions, other safety problems, and accidents to his/her department head or the appropriate supervisor.

Article 4. *Smoking*

5-4-1 No employee shall smoke in a Town-owned building, or its enclosed entry way, nor shall he/she impede access of the public to said building.

Article 5. *Drugs*

5-5-1 An employee shall not unlawfully manufacture, distribute, dispense, possess, or use a controlled substance as defined by G.L. c.94C,§1 during his/her working hours.

5-5-2 An employee shall notify the Town Manager of any conviction of a criminal drug law occurring within the workplace no later than five days after the conviction.

5-5-3 The Town Manager shall distribute drug awareness and educational material to each employee, and material pertaining to the maintenance of a drug free workplace to each supervisor, who shall familiarize themselves with the material and attend drug education programs as directed by the Town Manager.

5-5-4 An employee who violates section 5-5-1 may be subject to, in addition to other disciplinary action as provided herein, (a) mandatory participation and successful completion of an approved drug rehabilitation or assistance program, (b) unpaid leave of absence pending successful completion of such a program, (c) discharge from employment, and (d) criminal prosecution.

Article 6. *Equal Employment Opportunity/Sexual Harassment Policy*

5-6-1 Introduction. Employees and applicants for employment with the Town of Provincetown have a right to be free from unlawful discrimination and harassment. It is the policy of the Town to promote a productive workplace and one which is professional and treats all employees with dignity and respect. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. Discrimination (including harassment), whether based upon race, color, gender, national origin, religious creed, ancestry, age, sexual orientation, disability, maternity leave, genetics (results of genetic testing), active military status, gender identity, or another basis prohibited under state or federal anti-discrimination statutes, will not be tolerated.

As a result, unlawful discrimination of employees occurring in the workplace or in

other settings in which employees may find themselves in connection with their employment will not be tolerated by the Town. Further, any retaliation against an individual who has formally or informally complained about discrimination, or has cooperated with an investigation of a discrimination complaint, is prohibited. To achieve our goal of providing a workplace free from discrimination, the conduct that is described in this policy will not be tolerated, and we will implement the procedure described below to address any potential inappropriate conduct.

This policy applies to all employment practices and employment programs sponsored by the Town. This policy shall apply, but not be limited to, the areas of: recruitment; selection; compensation and benefits; professional development and training; reasonable accommodation for disabilities or religious practices; promotion; transfer; termination; layoff, and other terms and conditions of employment.

Because the Town takes allegations of unlawful discrimination and harassment seriously, we will respond promptly to complaints and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of discrimination and 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 legal definitions of discrimination or harassment.

5-6-2 Definition of Sexual Harassment

In Massachusetts, the legal definition for sexual harassment is:

"Sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

(a) 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,

(b) 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.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

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 work place 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:

- Unwelcome sexual advances - whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and,
- Discussion of one's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by this organization.

Sexual harassment is not, by definition, limited to prohibited conduct by a male employee toward a female employee. Rather:

1. A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser.
2. The harasser does not have to be the victim's supervisor. [S]he may also be an agent of the supervisor, a supervisory employee who does not supervise the victim, a non-supervisory employee (coworker), or, in some circumstances, even a non-employee.
3. The victim does not have to be the opposite sex from the harasser.
4. The victim does not have to be the person at whom the unwelcome sexual conduct is directed. [S]he may also be someone who is affected by such conduct when it is directed toward another person. For example, the sexual harassment of one female (or male) employee may create an intimidating, hostile, or offensive working environment for another female (or male) coworker or interfere with the coworker's work performance. The belief that such interference has occurred must be objectively reasonable.
5. Sexual harassment does not depend on the victim's having suffered an actual economic injury as a result of the harasser's conduct. For example, improper sexual advances which do not result in the loss of a promotion by the victim or the discharge of the victim may, nonetheless, constitute sexual harassment where they interfere with the victim's work or create a harmful or offensive work environment. The belief that such interference occurred must

be objectively reasonable.

5-6-3 Responsibilities of All Employees

Each employee is personally responsible for:

1. Ensuring that [s]he does not sexually harass any other employee, applicant for employment, or other individual in the workplace;
2. Cooperating in the investigation of complaints of alleged sexual harassment by providing any information [s]he possesses concerning the matters being investigated; and
3. Otherwise cooperating with the Town's efforts to prevent and eliminate sexual harassment and to maintain a working environment free from such unlawful discrimination.

5-6-4 Complaints of Sexual Harassment

If any of our employees believes that they have been subjected to sexual harassment, it is our policy to provide the employee with the right to file a complaint with our organization. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting your supervisor. If you prefer, you may file your complaint with the Town Manager. These persons are also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

5-6-5 Sexual Harassment Investigation

When we receive the complaint, we will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed sexual harassment. When we have completed our investigation, we will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where appropriate we will also impose disciplinary action.

Given the sensitive nature of complaints of discrimination and/or harassment, all parties and witnesses in a complaint, as well as Department Heads, supervisors, etc. who are aware of a complaint or investigation thereof, are strongly encouraged to maintain this information as confidential, so as not to negatively impact an investigation.

All employees are reminded of the provisions of G.L. c. 268A, §23(c)(2), which prohibit a municipal employee or official from improperly disclosing information that is protected from disclosure under the public records law, and acquired by an employee or official in the course of official duties. Section 23 also prohibits a municipal employee or official from using such information to further the employee's/official's personal interest. Violations of the prohibitions of Section 23 may lead to disciplinary action, up to and including termination.

5-6-6 Complaints Concerning Other Forms of Discrimination and/or Harassment

Complaints alleging other forms of discrimination and/or harassment, other than sexual harassment, will be processed in accordance with Sections IV and V, above.

5-6-7 Disciplinary Action

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such actions may include: counseling, informal or formal reprimands, written or verbal warnings, suspension, reduction in pay, reduction in duties, transfers, and other formal sanctions including termination from employment.

5-6-8 State and Federal Remedies

In addition to the above, if you believe you have been subjected to unlawful discrimination and/or harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC – 300 days; MCAD – 300 days).

1. **The United States Equal Employment Opportunity Commission**

One Congress Street
Tenth Floor
Boston, MA 02114
(617) 565-3200

2. **The Massachusetts Commission Against Discrimination**

Boston office:
One Ashburton Place, Room 601
Boston, MA 02108
(617) 994-6000

Springfield office:
424 Dwight Street, Room 220
Springfield, MA 01103
(413) 739-2145

Worcester office:
Worcester City Hall
455 Main Street, Room 100
Worcester, MA 01608
(508) 799-8010

5-6-9 Reasonable Accommodation

Employees seeking reasonable accommodations may submit their request in writing to Town Manager, 260 Commercial Street, Provincetown, MA 02657.

5-6-10 Equal Employment Opportunity Statement

The Town will not discriminate in its employment practices, on the basis of race, color, gender, national origin, religious creed, ancestry, age, sexual orientation, disability, maternity leave, genetics (results of genetic testing), active military status, or another basis prohibited under state or federal anti-discrimination statutes. This shall include such areas as Recruitment, Selection, Compensation and benefits, Professional development and training, Reasonable accommodation for disabilities or religious practices, Promotion, Transfer, Termination, Layoff, and Other terms and conditions of employment.

Chapter 6 DISCIPLINARY ACTION

Article 1. *General Provisions*

6-1-1 The Town Manager and/or designee of the Town Manager shall impose discipline as provided herein.

6-1-2 The Town Manager and/or such designee shall be temperate and shall not intentionally embarrass the employee being disciplined.

6-1-3 The Town Manager and/or such designee shall indicate the specific conduct giving rise to the discipline, including the date of such conduct if known.

6-1-4 The Town Manager and/or such designee shall warn that continuance of the conduct will result in disciplinary action, offer assistance in correcting the conduct, and describe the rights of appeal.

6-1-5 The Town Manager and/or such designee shall prepare written documentation of discipline imposed on an employee, which shall be filed in the employee's individual personnel file.

6-1-6 The Town Manager and/or such designee shall adhere to a policy of progressive discipline, whenever possible and practical. Disciplinary actions may take several forms. The forms of disciplinary actions are: **Verbal Warnings; Written Warnings; Suspension and Dismissal.**

6-1-7 While it is the goal of this policy of progressive discipline that termination from employment is a disciplinary sanction to be imposed only after other disciplinary measures have failed, the steps of progressive discipline need not be followed when a first time incident is sufficiently serious in the Town Manager's discretion to warrant immediate termination. For instance, an employee may be discharged at any time without regard to any progressive steps if he or she commits an offense for which immediate discharge is specified as a penalty or if, in the Town Manager's judgment, the employee's continued presence would be contrary to the well-being of the Town of Provincetown or its employees.

6-1-8 Behaviors That May Result in Disciplinary Action - Employees are prohibited from engaging in any of the conduct listed below and may receive discipline up to and including dismissal for doing so. This list has been established to serve as

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examples of behavior that could warrant a range of disciplinary sanctions. It is not exhaustive. Appropriate levels of discipline may be based on the severity of employee behavior.

- Incompetence or inefficiency in performing job duties;
- Violating any lawful and reasonable regulation, order, or directive made or given by a superior, or insubordination that constitutes a serious breach of discipline;
- Being intoxicated, drinking any intoxicating beverages, or being under the influence of a drug or narcotic while on duty;
- Unlawfully distributing, selling or possessing alcohol or non-prescription drugs when on the job or subject to duty (i.e. "on call");
- Accepting any valuable consideration given with the expectation of influencing the employee in performing his/her duties;
- Loss of an employee's driver's license and driving privileges by due process of law when the employee's position makes operating a motor vehicle or equipment necessary in performing his/her duties;
- Violating any of the provisions of Town Charter, By-Laws, or rules and regulations;
- Displaying disrespectful or inappropriate behaviors toward any individual with whom the employee comes into contact as part of his or her job, including but not limited to residents, fellow employees or supervisors;
- Refusing to do assigned work or failing to carry out the reasonable assignment of a Manager, supervisor or department head;
- Being inattentive to duty, including sleeping on the job;
- Falsifying any records (including job applications, time cards, or other Town of Provincetown records) or using official position for personal advantage;
- Being repeatedly or continuously absent or late, being absent without notice or reason satisfactory to the Supervisor, Department Head or Town Manager or leaving one's work assignment without appropriate authorization;
- Failing to timely report an On the Job Injury;
- Smoking within no-smoking areas or no-smoking operations;
- Conducting oneself in any manner that is offensive, abusive or contrary to common decency or morality; carrying out any form of harassment including sexual harassment, and disgraceful personal conduct or language toward the public, fellow employees or supervisors.
- Operating Town-owned vehicles, equipment or private vehicles on Town business without proper license or operating any vehicle on Town property or business in an unsafe or improper manner;

- Having an unauthorized weapon, firearm or explosive on Town of Provincetown property;
- Appropriating Town equipment, time or resources for personal use or gain;
- Computer abuse, including but not limited to, misuse of computer accounts, unauthorized destruction of files, creating illegal accounts, possession of unauthorized passwords, disruptive or annoying behavior on the computer and non-work related utilization of computer software or hardware;
- Conviction (or in some instances an arrest) for a felony or for a malfeasance involving moral turpitude;
- Misusing or willfully neglecting Town of Provincetown property, funds, materials, equipment or supplies;
- Fighting, engaging in horseplay or acting in any manner that endangers the safety of oneself or others. This includes acts of violence as well as threats of violence;
- Interfering in any way with the work of others;
- Stealing or possessing without authority any equipment, tools, materials or other property of the Town of Provincetown or attempting to remove them from the premises without approval or permission from the appropriate authority;
- Marking or defacing walls, fixtures, equipment, tools, materials or other Town of Provincetown property, or willfully damaging or destroying property in any way;
- Willful violation of safety rules or Town of Provincetown by-laws and policies;
- Any other act or failure to act, which in the judgment of the appointing authority is sufficient to show that the individual is an unsuitable and unfit public employee.

Article 2. *Verbal Reprimands*

6-2-1 The Town Manager and/or designee of the Town Manager observing the action of a Town employee warranting disciplinary action, may issue a verbal reprimand to the employee.

6-2-2 The person issuing the verbal reprimand may place a written summary thereof in the employee's individual personnel file.

Article 3. *Written Reprimands*

6-3-1 The Town Manager and/or designee of the Town Manager shall issue a written reprimand to an employee if a verbal warning or warnings have failed to correct the situation.

6-3-2 The person issuing the written reprimand shall place a copy in the employee's individual personnel file.

6-3-3 The employee may prepare his/her written response to a written reprimand, and have such response accompany said written reprimand in the employee's individual personnel file.

Article 4. Probation

6-4-1 The Town Manager may place an employee on probation for a maximum of three (3) months if a written reprimand has failed to correct an action warranting disciplinary action.

6-4-2 The Town Manager may place an employee on probation for a maximum of three (3) months if the employee's performance does not meet satisfactory standards.

6-4-3 The Town Manager shall issue a notice of probation to the employee and the employee's department head setting forth the effective date of the probation, the period of probation, and the reason for the probation.

6-4-4 The Town Manager shall place a copy of the notice of probation in the employee's individual personnel file.

6-4-5 Upon expiration of the probationary period the Town Manager shall notify the employee that (a) the employee's performance meets satisfactory standards, and that he/she will be retained; or (b) the employee's performance does not meet satisfactory standards, and that he/she will be continued on probation; or (c) the employee's performance does not meet satisfactory standards and that he/she will be discharged.

Article 5. Suspension

6-5-1 The Town Manager may suspend with pay any non-union paid Town employee for up to fifteen (15) days for good cause or if the Town Manager deems the suspension to be necessary to protect the interests of the Town.

6-5-2 The Town Manager may, after a hearing, suspend without pay any non-union paid Town employee for good cause.

6-5-3 The Town Manager shall issue a notice of suspension to the employee and the employee's department head setting forth the effective date of the suspension, the period of the suspension, and the reason for the suspension. The Town Manager shall place a copy of said notice in the employee's individual personnel file.

6-5-4 The Town Manager shall notify the Town accountant and the treasurer/collector of the effective date of the suspension and the period of the suspension.

6-5-5 Within fourteen (14) days of the conclusion of the period of suspension, an employee who has been suspended may request a hearing before the personnel board, which hearing shall take place within forty (40) days of the request.

6-5-6 The employee may be represented by counsel at the hearing, and shall be entitled to present evidence, to call witnesses, and to question any witness appearing at the hearing.

6-5-7 Within ten (10) days after the public hearing is adjourned the personnel board shall render its opinion as to whether the suspension was justified, and in the case of a suspension without pay may, by at least a two-thirds vote, restore any or all lost pay.

Article 6. Discharge

6-6-1 The Town Manager may, after a hearing, discharge any non-union paid Town employee for good cause, subject to the following provisions:

6-6-2 The Town Manager shall deliver a written notice of the discharge and a statement of the reasons therefor by registered mail to the last known address of the employee. The employee shall be discharged as of the time of the mailing of said notice.

6-6-3 Within fourteen (14) days of mailing of the notice the employee may request a public hearing before the personnel board, which hearing shall take place within forty (40) days of the request.

6-6-4 The employee may be represented by counsel at the hearing, and shall be entitled to present evidence, to call witnesses, and to question any witness appearing at the hearing.

6-6-5 Within ten (10) days after the public hearing is adjourned the personnel board, by at least a two-thirds vote, may reinstate the employee and may restore any or all lost pay, but the employee shall otherwise be removed.

Town of Provincetown Employee Progressive Discipline Form

This form is used as a guide for the supervisor when documenting issues that need attention under the provisions of the Town of Provincetown Progressive Discipline policy. When completed, it serves as a written record of progressive discipline conducted with an employee pertaining to one or more Town of Provincetown rules.

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Employee Name	Telephone
Job Title	Department

Which Form of Progressive Discipline Applies in this Instance?

_____ Verbal Warning _____ Written Warning

_____ Suspension for _____ working days

Issues and Policies Discussed:

Facts and Events Leading to Discussion:

Why a Concern?

Action Steps for Improvement:

Follow Up in _____ 30 Days _____ 60 Days

On This Date: _____

Previous Progressive Discipline Summary:

Same Issue? _____ No _____ Yes

Description and Date(s): _____

Different Issue? _____ No _____ Yes

Description and Date(s): _____

Consequences of Failure to Improve:

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_____ Further Disciplinary Action _____ Dismissal Will Be Recommended

Supervisor's Signature

Date

To the Employee: This written record of progressive discipline is being issued based on your violation of one or more Town of Provincetown rules or for poor performance. This report will remain in your personnel file. You are being provided a copy of this Progressive Discipline Form. To the extent that you have a right to appeal this action, such appeal is through the process set out in the Town Charter, Chapter 10, Section 4 and the Town's Personnel Rules, Chapter 6.

The employee's signature indicates that he or she has seen this report and the contents have been reviewed with him or her. The signature does not indicate agreement.

Employee's Signature

Date

Chapter 7 GRIEVANCES

Article 1. *Application of Chapter*

7-1-1 The provisions of this chapter shall not apply to an employee who is subject to the collective bargaining agreement between the Town and union employees, nor to a

suspension without pay under Charter §10-4-2 or discharge under Charter §10-4-3 of a non-union paid Town employee.

7-1-2 The provisions of this chapter shall only apply to alleged violations of the Personnel Rules.

Article 2. *Rights and Liabilities*

7-2-1 An employee may be represented by counsel during the grievance process, shall be entitled to present evidence, to call witnesses, and to question any witness appearing at the hearing.

7-2-2 If an employee is requested to be present at any hearing under this chapter, then the employee shall not lose any pay for work time lost.

7-2-3 An employee shall bear any expenses incurred by the employee during the course of the grievance procedure.

7-2-4 The Town Manager, a department head, or a supervisor shall not retaliate or take any disciplinary action against an employee based upon the submission of a grievance.

7-2-5 If this chapter requires an employee, a department head, or the Town Manager to take action within a period of time, then that period shall be suspended on holidays and during the vacation of the person governed by the period of time.

Article 3. *Submission of Grievances*

7-3-1 A statement of grievance submitted under this chapter shall be in writing, shall specify the provision of these rules alleged to have been violated, and identify the proposed remedy. It shall be submitted to the department head within five (5) working days after the employee knew or should have known of the occurrence or failure of occurrence of the incident upon which the grievance is based. Such statement shall contain (a) a short and plain statement of the facts upon which the grievance is based, (b) a request for the relief to which the employee deems himself or herself entitled, and (c) a statement that the employee has complied with section 7-3-2.

7-3-2 An employee shall attempt to discuss the substance of a grievance with his or her immediate supervisor or department head and shall attempt to resolve the grievance at the lowest administrative level possible.

7-3-3 The department head shall provide a written answer to a grievance filed under section 7-3-1 within five (5) working days of his/her receipt of the statement of grievance.

7-3-4 If the employee is not satisfied with the answer of the department head, then the employee may present the statement of grievance and the answer of the department head to the Town Manager within five (5) working days from the receipt of the answer from the department head.

7-3-5 Within ten (10) working days from his/her receipt of the statement of grievance the Town Manager shall provide a written answer to the employee.

7-3-6 If an employee has no department head, then he may initially present a

statement of grievance to the Town Manager, who shall provide a written answer within ten (10) working days. If the employee is not satisfied with the answer of the Town Manager, then the employee may present the statement of grievance and the answer of the Town Manager to the board of selectmen within five (5) working days from the receipt of the answer from the Town Manager. Within fourteen (14) working days from receipt of the statement of grievance, the board of selectmen shall provide a written answer to the employee.

7-3-7 The Town Manager may waive any of the above time limits.

Article 4. *Appeals to the Personnel Board*

7-4-1 Within ten (10) working days of the delivery of the written answer of the Town Manager under 7-3-5 or the board of selectmen under 7-3-6, the employee may request a hearing before the personnel board, which hearing shall take place within forty (40) days of the request.

7-4-2 The employee shall accompany his/her request for a hearing with a copy of his statement of grievance, and any answer(s) thereto.

7-4-3 The personnel board shall conduct the hearing in accordance with the Open Meeting Law.

7-4-4 Within ten (10) days after the hearing is adjourned the personnel board, by a least a two-thirds vote, may overrule the Town Manager. The decision of the personnel board shall be final.

Chapter 8 VACATIONS AND HOLIDAYS

Article 1. *Computation of Vacation Time*

8-1-1 A full-time permanent employee shall on his/her anniversary date be eligible for paid vacation time based upon his or her period of continuous service with the Town in accordance with the following schedule:

On completion of six (6) months of continuous service, but less than twelve (12) months of continuous service	Forty (40) hours of vacation
On completion of twelve (12) months of continuous service	Eighty (80) hours of vacation
On completion of five (5) years of continuous service	One hundred twenty (120) hours of vacation
On completion of ten (10) years of continuous service	One hundred sixty (160) hours of vacation
On completion of fifteen (15) years of continuous service	One hundred eighty (180) hours of vacation
On completion of twenty (20) years of continuous service	Two hundred (200) hours of vacation
On completion of twenty five (25) years of continuous service	Ten (10) additional hours of paid vacation and shall continue to earn an additional ten (10) additional hours of paid vacation for each year of service in excess of twenty five (25) years. There shall be no limit on the number of additional vacation hours an employee may earn.

8-1-2 A part-time permanent employee shall have vacation benefits prorated based upon the proportion their hours worked bear to forty (40) hours.

8-1-3 All other employees shall not receive any vacation time.

8-1-4 Length of continuous service shall be based upon an employee's anniversary date of employment for purposes of this article.

Article 2. *Use of Vacation Time*

8-2-1 A new employee may take 40 hours of vacation after a period of service of six months, but shall thereby be entitled to only 40 hours of vacation at the end of his/her first year of employment.

8-2-2 An employee shall use the vacation time to which he/she is entitled within the same employment year to which the vacation time is related, except as provided

in section 8-2-4.

8-2-3 If permitted by the Town Manager, then an employee may use up to 40 hours of the vacation time to which he/she is entitled within one year of the completion of the employment year to which the vacation time is related.

Article 3. *Scheduling of Vacation Time*

8-3-1 An employee shall submit his/her written request to use vacation time to his/her department head at least one month prior to commencement of the vacation. In the case of a department head, he/she shall submit their own vacation request to the Town Manager at least one month prior to commencement of the vacation. The Town Manager may waive this one month requirement, but the Town Manager's refusal to do so shall not be subject to the grievance procedure.

8-3-2 A department head may prohibit an employee, and the Town Manager a department head, from taking a vacation at a particular time if it would unreasonably interfere with the work of the Town.

8-3-3 A department head may, subject to the approval of the Town Manager, designate a subordinate to serve as acting department head during a vacation by the department head. The department head and/or Town Manager may place limitations on the authority of such acting department head.

Article 4. *Payment for Unused Vacation Time*

8-4-1 The Town shall pay to an employee, upon the termination of his/her employment other than by discharge for cause, and provided that the employee has given the Town Manager at least two (2) weeks' notice, a payment proportional to the amount of vacation pay he/she would have received had the termination not occurred.

8-4-2 If the employee is deceased, then such payment shall be made to his/her estate.

Article 5. *Holidays*

8-5-1 New Year's Day, Martin Luther King Day, President's Day, Patriot's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Day, and any other day declared by the Governor of the Commonwealth, the General Court, or the Town to be a holiday, shall be paid holidays.

8-5-2 An employee whose work is required to maintain essential Town services shall be required to work on a holiday.

8-5-3 A non-exempt employee required to work on a holiday shall receive an additional day's pay.

8-5-4 If a holiday falls when an employee is on vacation, then the employee shall receive an additional paid vacation day.

Chapter 9 LEAVES OF ABSENCE

Article 1. *Accrual of Sick Leave*

9-1-1 A full-time permanent employee shall accrue sick leave at the rate of one and one-quarter (1 1/4) days for each month of actual service, beginning with the first full month of actual service.

9-1-2 A part-time permanent employee working twenty (20) or more hours per week shall have sick leave benefits prorated based upon the proportion his/her hours worked bears to forty (40) hours, beginning with the first full month of actual service.

9-1-3 Sick leave accrued during an employee's probationary period may not be used until completion of the first six months of continuous service.

Article 2. *Unused Sick Leave*

9-2-1 Sick leave not used in the year in which it accrues, together with any accumulated sick leave standing to the employee's credit on July 1, 1991 and not used in the current year, may be accumulated for use in a subsequent year.

9-2-2 On the retirement or death of an employee, he/she or his/her estate will be paid a sum equal in value to 25% of his/her accumulated sick leave, up to a maximum payment equal to that specified in the current AFSCME contract.

Article 3. *Records of Sick Leave*

9-3-1 Each employee absent on sick leave shall file with the office of the Town Manager an employee's certificate of disability, on the form prescribed by the Town Manager, before the employee shall be entitled to compensation as herein provided.

9-3-2 When absence for sick leave is for a period of more than three (3) consecutive workdays, each such employee shall also file a physician's certificate of disability, signed by a regularly licensed and practicing physician, before the employee shall be entitled to compensation as herein provided.

9-3-3 The Town accountant shall keep a record of all sick leave granted to each employee in the service of the Town.

9-3-4 Employees who have been warned that their sick leave use has created a pattern of abuse may be disciplined or discharged upon continued abuse of sick leave. Patterns of abuse may consist of, but are not limited to, single day absences before or after regularly scheduled days off and/or holidays.

Article 4. *Workers Compensation and Sick Leave*

9-4-1 An employee absent due to an occupational disability for which he/she has submitted a workers compensation claim shall notify the Town Manager as soon as the injury is incurred, or as soon thereafter as possible.

9-4-2 Copies of all medical records submitted to support a workers compensation

claim shall be filed with the Town Manager as soon as they are available.

9-4-3 An employee absent due to occupational disability and who receives workers compensation benefits may use his/her accumulated sick leave to supplement such benefits and provide him/her with full salary. In such case, and so long as the employee has sufficient sick leave accumulated, the Town shall pay the employee two fifths (2/5) of his/her daily salary, deducting two fifths (2/5) of a day from the employee's accumulated sick leave, until such time as the employee's sick leave is exhausted. Prior to the employee receiving his/her initial workers compensation payments, the Town shall pay the employee his/her daily salary, deducting one day from the employee's accumulated sick leave, until such time as the employee's sick leave is exhausted. Subsequent assignment to the Town of workers compensation payments shall restore time to the employee's accumulated sick leave at the rate of three fifths (3/5). In no event shall the payment from the Town, when added to the workers compensation benefit, result in an employee receiving, in total, more than his or her regular salary.

Article 5. Use of Sick Leave

9-5-1 Sick leave may be used only where said leave is caused by sickness, or by injury not incurred in the course of employment.

9-5-2 Sick leave may be used for illness or disability arising out of or caused by childbirth.

9-5-3 The Town Manager may authorize the use of sick leave by an employee in the event of a serious illness of the employee's spouse, son, daughter, parent, or domestic partner.

9-5-4 Sick leave may be used for scheduled doctor's appointments provided that the sick leave is used in no less than one hour increments and the employer is provided with reasonable notice of the intended absence.

Article 6. Jury Duty

9-6-1 An employee who is summonsed to appear in court for jury related service shall notify his/her supervisor upon receipt of such summons, and shall be granted a leave of absence without loss of pay for such service.

9-6-2 Upon presentation of satisfactory evidence relating to jury service and payment thereof, the Town will pay such employee such sum of money as, when added to the amount received by such employee as compensation for jury service, will result in the payment to the employee of his/her full salary for any particular work week.

Article 7. Maternity Leave Under Massachusetts Law (MMLA)

9-7-1 Parental Leave shall be in accordance with Massachusetts General Law 149 Section 105d.

Article 8. Bereavement Leave

9-8-1 An employee shall be granted five (5) days leave with pay in the event of the death of the employee's spouse, son, daughter, parent, step parent or domestic partner.

9-8-2 An employee shall be granted three (3) days leave with pay in the event of the death of the employee's sister, brother, grandparent, mother-in-law, father-in-law, brother-in-law, or sister-in-law.

9-8-3 Bereavement leave shall be used within one week of the date of death except in situations where the Town Manager or the Town Manager's designee deems another time period to be reasonable.

Article 9. Personal Leave

9-9-1 An employee shall be granted two (2) days leave with pay for conducting personal business which could not otherwise be done during off hours.

9-9-2 Requests for personal leave shall be made of the immediate supervisor as far in advance as possible.

9-9-3 Personal leave may not be taken in less than half-day increments.

9-9-4 The employee's supervisor shall approve the leave request so long as the department or the Town will continue to have adequate staffing to maintain services.

Article 10. Emergency Leave

9-10-1 An employee shall be granted one (1) emergency leave day with pay during the fiscal year at the discretion of the employee's department head.

Article 11. Military Leave

9-11-1 Employees shall be paid the difference between regulation compensation and compensation received while on temporary summer or like periods of training in the military forces of the nation or the state for a period not to exceed seventeen (17) days in any twelve month period (fiscal year), provided, however, payment shall not be made to members of the National Guard when mobilized during an emergency in the state.

Article 12. Family and Medical Leave (FMLA)

9-12-1 Employees who have worked for the Town for at least twelve (12) months and for at least 1,250 hours during the immediately preceding twelve (12) months shall be deemed to be "Eligible Employees" for purposes of this Article.

9-12-2 Eligible Employees are entitled to up to **twelve (12) workweeks** of leave per year, measured from the beginning of the leave, for one or more of the following reasons:

1. The birth of an employee's child;
2. The placement of a child with an employee for adoption or foster care;
3. The need to care for the employee's child, spouse, or parent who has a "serious health condition";
4. The employee's "serious health condition" which renders the employee

- unable to perform his or her job;
5. Because of any qualifying exigency (as determined by the federal Department of Labor regulations) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

Definition of Twelve (12) Month Period: The twelve (12) month period during which an Eligible Employee can take a leave under this policy is a "rolling period." This period is measured forward from the date an employee first uses FMLA leave. An Eligible Employee's leave entitlement consists of up to twelve (12) weeks of FMLA leave during this rolling twelve (12) month period.

Eligible Employees are also entitled to up to **twenty-six (26) workweeks** of leave during one twelve (12) month period, to care for a family member (defined as a spouse, son, daughter, parent, or next of kin) in the armed services who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. This leave is available only one time during one twelve month period.

9-12-3 In order to take such leave, the employee must provide a thirty (30)-day advance notice of the need to take the leave when the need is foreseeable. If such advance notice is not possible, the employee shall provide notice as soon as is reasonable and practicable. The employee must also provide medical certifications supporting the need for leave due to a serious health condition, when applicable.

9-12-4 During such leave, the Eligible Employee shall be provided with continued health insurance benefits as long as the employee continues to pay the same contribution rate as paid by the employee prior to leave. In the event the employee fails to return to work at the end of the leave, the Town retains the right to recover health insurance premiums the Town paid to maintain the employee's health insurance during the leave, to the extent permitted by law.

9-12-5 During such leave, an employee will be required to use paid sick leave, vacation, emergency, and personal leave benefits accrued as of the beginning of such leave. Once these benefits have been exhausted, the remainder of such leave shall be unpaid.

9-12-6 At the end of a leave as provided in this Article, the employee shall provide a "fitness-for-duty" certification before returning to work, when such leave was used due to that employee's serious medical condition. When an Eligible Employee returns to work at the end of such leave, he or she will be restored to the same position or a similar position with equivalent pay and benefits, unless the returning employee is among the highest paid ten percent of the Town's employees, in which event, the Town may choose not to restore the employee to his or her former position in order to prevent substantial and grievous economic injury to the Town. To exercise this option not to restore an employee, the Town must notify the employee at the time he or she provides a notice of intent to take a leave under this Article that he or she is among the highest ten percent (10%) of the Town's

employees. The Town must also notify the employee as soon as the Town decides to deny job restoration and explain the reasons for the decision. The Town must offer the employee a reasonable opportunity to return to work after giving this notice. If an employee on leave would have been laid off or otherwise had his or her position terminated during the leave period, then the Town will not be required to reinstate the employee at the end of the leave.

9-12-7 "Serious health conditions" may include heart attacks, strokes, cancer, severe respiratory conditions, back conditions requiring surgery or extensive therapy, severe arthritis, pneumonia, appendicitis, nervous disorders and complications or illnesses related to pregnancy. "Serious Health Condition" may also mean an illness, injury, impairment or physical or mental condition that involves:

- a. any period of incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical care facility;
- b. any period of incapacity requiring absence of more than three calendar days from work, school or other regular activities that also involves continuing treatment by or under the supervision of a health care provider; or
- c. continuing treatment by or under the supervision of a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days, and for prenatal care.

For purposes of the care of a service member who is suffering from a serious illness or injury, "serious illness or injury" is defined as "an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating."

9-12-8 The Town retains the right to require Eligible Employees requesting a leave under this Article to furnish a health care provider's certification verifying the serious health condition. "Health care providers" shall be those professionals itemized in the Family and Medical Leave Act. The Town also reserves the right to require second or third medical opinions and periodic recertification, at the Town's expense. The employee may be required to provide reports (at least monthly or more often, as determined in the Town Manager's sole discretion) as to the employee's status and intent to return to work.

9-12-9 With the exception of the serious health condition of an individual employee, in the event both spouses are employed by the Town and are Eligible Employees, they are jointly entitled to a combined total of twelve (12) workweeks of family leave (or twenty-six (26) where applicable) during any applicable twelve month period.

9-12-10 A leave for birth, adoption or foster care placement must conclude within twelve (12) months of the birth or placement of the child.

9-12-11 Intermittent or Reduced Leave: When medically necessary, an employee eligible for FMLA leave may be permitted to take "intermittent" leave (two (2) or more separate leave periods) or "reduced" leave (where an employee continues to work, but for fewer hours per day or per week), where appropriate under the FMLA. In such cases, the total number of hours or days of leave taken by the employee is limited

to the equivalent of twelve (12) workweeks (or twenty-six (26) where applicable) for that employee. Employees must make a reasonable effort to schedule the leave in a manner that will not unduly disrupt the Town's operations. The Town may transfer an employee to an available alternative position with equivalent pay and benefits for which the employee is qualified, if that position can accommodate recurring periods of leave better than the employee's regular job.

Article 13. Sick Leave Bank

9-13-1 Establishment. There is hereby established a sick leave bank for use by permanent, non-union employees who, because of their own prolonged illness, have exhausted all accumulated sick, vacation, and other paid leave.

9-13-2 Participation.

9-13-2-1 At the inception of the sick leave bank any permanent employee who wishes to participate (hereinafter referred to as a "participating employee") shall donate one day of his/her sick leave balance into said bank for each year of service, up to a maximum of five days. Annually thereafter, every January, each participating employee shall donate one sick leave day to the bank. Donations of sick leave days in excess of these amounts shall require the written assent of the Town Manager and three members of the personnel board.

9-13-2-2 Each participating employee shall first complete and sign a form established by the Town Manager certifying their participation in the sick leave bank, an approved copy of which shall be provided to the Town accountant. Only participating employees shall be eligible to apply for benefits.

9-13-2-3 Permanent non-union employees shall become eligible to participate after one year from their initial date of appointment.

9-13-3 Sick Leave Bank Committee. A sick leave bank committee shall be established, composed of one member of the personnel board selected annually by the members of that board; one participating employee selected annually by all participating employees; and one other person, who is not a participating employee, to be appointed annually by the Town Manager.

9-13-4 Application for Benefits. Application for benefits shall be in writing, in a form prescribed by the Town Manager, to the sick leave bank committee in care of the office of the Town Manager, accompanied by a doctor's certificate as to the physical inability of an employee to resume his/her duties due to prolonged illness.

9-13-5 Eligibility.

9-13-5-1 The sick leave bank committee shall deny an application if: (1) the applicant is not a participating employee under §9-13-2-2; (2) the application for sick leave does not comply with §9-13-4; (3) the applicant has not exhausted all accumulated sick, vacation, and other paid leave; (4) the applicant's health condition does not render the employee unable to perform his or her job; or (5) the applicant has filed a claim for workers compensation benefits, unless such claim has been denied.

9-13-5-2 The sick leave bank committee may deny an application if: (1) the

applicant's category of achievement under these rules is "less than satisfactory;" (2) the applicant has had a poor attendance record; (3) there are other sources of benefits available to the applicant; (4) the applicant's previous withdrawals from the sick leave bank have been excessive; or (5) there is other just cause for denying the application.

9-13-6 Action on Application.

9-13-6-1 The sick leave bank committee shall act on an application within thirty days of its filing with the Town Manager.

9-13-6-2 The amount of leave to be granted hereunder to any particular employee shall not exceed six weeks per application or twelve weeks in any one year. Notwithstanding the foregoing, no amounts shall be approved which shall cause the sick leave bank balance to be depleted by more than fifty percent (50%) of its balance as of the date the application was made.

9-13-6-3 The sick leave bank committee may request that the Town Manager invoke a medical panel to substantiate the certification of the employee's physician; and may request that the Town accountant furnish the applicant's attendance records for the three years preceding the filing date of the claim.

9-13-6-4 Decisions of the sick leave bank committee shall be made in writing, and filed with the Town Manager and Town accountant; and shall not be subject to the grievance procedure.

Chapter 10 REIMBURSEMENT

Article 1. *Request for Reimbursement*

10-1-1 All requests under this chapter shall be made in writing on a form prescribed by the Town Manager. Such form shall first be approved by the department head and submitted to the Town Manager for approval prior to the incurrence of any expenses hereunder.

10-1-2 The department head shall deny a request if the request is not for one of the matters set forth in this chapter, or if it fails to meet the requirements set forth in this chapter, or it is not principally related to Town business, or if funds are not available for reimbursement.

10-1-3 A copy of the approved request form in 10-1-1 shall accompany all vouchers submitted to the Town accountant for reimbursement.

Article 2. *Memberships*

10-2-1 An employee may receive reimbursement for a membership provided that the request indicates its relation to the employee's job and its cost, and contains evidence of payment.

10-2-2 The amount of reimbursement under this article shall be the cost of the

membership or a portion thereof.

Article 3. *Conferences, Courses, and Meetings*

10-3-1 An employee may receive reimbursement for attending a conference, course, or meeting for which the subject matter directly relates to the employee's position or provides beneficial information, provided that the employee obtains prior approval and the request indicates its date, its purpose, its relation to the employee's job, and its cost. The employee shall present evidence of payment before reimbursement may be given.

10-3-2 The amount of reimbursement under this article shall be the cost of the admission to the conference, course, or meeting, or a portion thereof.

Article 4. *Food and Lodging*

10-4-1 An employee may receive reimbursement for a reasonable amount for food and/or lodging obtained while attending an out-of-Town conference, course, or meeting provided that the request indicates the date when the food or lodging was obtained, where it was obtained, and its cost; and contains evidence of payment.

10-4-2 Reimbursement for a reasonable amount for the cost of food and lodging shall only be made with the prior written approval of the Town Manager or the Town Manager's designee.

Article 5. *Private Automobile Use*

10-5-1 An employee may receive reimbursement for the use of his/her private automobile provided that the request indicates the date of the travel, the point of departure, the destination, the purpose, the beginning and ending odometer readings, and the number of miles travelled.

10-5-2 An employee shall not receive reimbursement for private automobile use within the Town of Provincetown and between the employee's home and the Town of Provincetown, except under 10-5-4 below.

10-5-3 The amount of reimbursement under this article shall be equal to the amount accepted by the United States Internal Revenue Service.

10-5-4 Notwithstanding the above, the Town Manager may authorize payment of a monthly automobile allowance for those inspection personnel who are required to use their private automobile on a regular basis in the performance of their duties.

Article 6. *Automobile Rental*

10-6-1 An employee may receive reimbursement for the rental of an automobile provided that the request indicates the date or dates of the rental, the purpose, and the cost; and contains a copy of the rental agreement and evidence of payment.

10-6-2 The amount of reimbursement under this article shall be equal to the lowest cost of a reasonably available rental car.

Article 7. *Airplane, Bus, or Train Travel*

10-7-1 An employee may receive reimbursement for airline, bus, or train travel provided that the request indicates the date of travel, the point of departure, the destination, the purpose, and the cost; and contains evidence of payment.

10-7-2 The amount of reimbursement under this article shall be equal to the lowest cost of a reasonably available ticket.

Article 8. Uniform Allowance

10-8-1 There shall be a \$900 per year uniform allowance for the Chief of Police, Police Staff Lieutenant, and Marine Superintendent. These employees are responsible for reporting to duty in full and proper uniforms.

**Chapter 11
ADMINISTRATION OF COMPENSATION
AND CLASSIFICATION PLAN**

Article 1. Authorization

11-1-1 These rules are adopted pursuant to Section 4-1 of the Personnel By-law of the Town of Provincetown.

Article 2. Establishment of Plan

11-2-1 The Classification and Compensation Plan shall be established by, and may be amended by vote of, any annual Town meeting; which Plan shall (1) classify all non-union paid Town positions into groups and classes doing substantially similar work or having substantially equal responsibilities; and (2) establish minimum and maximum salaries to be paid to employees in positions so classified.

11-2-2 The Classification and Compensation Plan shall be reviewed and updated by the personnel board and the Town Manager at least every five years.

Article 3. Procedures for Amending Plan

11-3-1 The Town Manager, the personnel board, or any voter may propose amendments to the classification and compensation plan by filing a petition with the personnel board and the Town Manager by not later than thirty (30) days prior to the date for closing of the annual Town meeting warrant. A copy of said petition shall also be placed on file with the Town clerk.

11-3-2 Whenever a new or reclassified position is proposed, the Town Manager shall first have approved a written job description therefor, and shall propose to the personnel board a recommended classification grade for such position.

11-3-3 The *Municipal Position Rating Manual* published by the MMA Consulting Group, Inc. shall be the standard used for establishing and amending said plan.

11-3-4 The Town Manager shall propose annual adjustments to the salary schedule by filing a petition under 11-3-1.

11-3-5 The personnel board shall review any proposed amendment to said plan so proposed and shall file with the Town clerk, by not later than the date for closing of the annual Town meeting warrant, a warrant article containing (a) all proposals submitted by the Town Manager, and (b) those proposals submitted by the personnel board and any voter which the personnel board has voted to recommend.

11-3-6 The personnel board shall issue its report and recommendation to the Town meeting on whose warrant such amendment(s) shall appear.

Article 4. *Compensation Administration*

11-4-1 Persons appointed to positions shall be paid at the training wage rate during the probationary period of their employment; provided, however, that the Town Manager may authorize initial compensation at a level not exceeding the twenty-fifth (25th) percentile for the position's grade, on the basis of exceptional qualifications or a lack of qualified applicants available at the training rate.

11-4-2 Upon completion of the probationary period, an employee initially paid at the training rate shall be eligible for a salary increase to the minimum level of their position's grade.

11-4-3 Thereafter, employees shall be eligible for merit advancements on the basis of the Appraisal System set forth in Chapter 12.

11-4-4 An employee who receives a promotion to a position in a higher grade classification shall be compensated at the rate of pay that is closest to, but greater than, the employee's current rate of pay.

11-4-5 Incumbent employees in any position which is reclassified to a higher grade shall be compensated at the rate of pay that is closest to, but greater than, the current rate of pay.

11-4-6 A substitute on-call relief employee shall be compensated at the training wage rate for the permanent position unless another rate is expressly stated in Schedule C. A substitute on-call relief employee whose compensation is based on the training wage rate shall receive a retroactive pay increase if the training wage rate for such permanent position receives a retroactive pay increase.

Article 5. *Temporary Reclassification*

11-5-1 Where the reorganization of Town offices and/or departments pursuant to Section 7-2-2 or 7-2-3 of the charter necessitates the proposed reclassification of a position to a higher grade, and where a proposed amendment to the Plan has been filed in accordance with Section 11-3-1 above; the Town Manager with the approval of the personnel board is authorized to compensate such employee at a higher rate of pay reflecting the position's increased duties, pending the reclassification of said position by the next annual Town meeting.

11-5-2 If the amendment is subsequently rejected by the next annual Town

meeting, the employee shall continue to be compensated at the rate approved in 11-5-1 until such time as the employee's permanent grade equals or exceeds his/her temporary compensation level.

Article 6. *Longevity*

11-6-1 Permanent employees shall receive longevity payments equal to those of AFSCME employees.

**Chapter 12
ADMINISTRATION OF APPRAISAL SYSTEM**

Article 1. *Authorization*

12-1-1 These rules are adopted pursuant to Section 4-1 of the Personnel By-law of the Town of Provincetown.

Article 2. *Establishment of Appraisal System*

12-2-1 There shall be an Appraisal System as established by the Town Manager in consultation with the Personnel Board which shall govern the appraisal of all permanent Town employees.

12-2-2 The Appraisal system shall be revised and updated from time to time by the Town Manager together with the Personnel Board as deemed necessary by the Town Manager.

Article 3. *Conduct of Appraisal System/Department Heads*

12-3-1 On or before June thirtieth, the Town Manager or supervisor will conduct a formal annual performance appraisal review with each employee.

12-3-2 Any annual pay increase for department heads shall be effective on July first and shall be based on their performance for the previous year.

**Chapter 13
ELECTRONIC COMMUNICATIONS & COMPUTER USAGE POLICY**

Article 1. *Introduction*

This Policy is intended to provide guidance on the appropriate use of the Town of Provincetown's electronic communication and information equipment and systems ("Systems"). Such Systems include, but are not limited to, computer workstations, hardware and software, electronic mail ("e-mail"), telephones, cellular phones, pagers, Smartphone/PDA-style devices, facsimile machines, and the Internet.

Use of the Town of Provincetown's Systems by any employee, contractor, consultant, and/or volunteer ("user") shall constitute acceptance of the terms of this Policy and any such additional related policies that may be issued by the Town of

Provincetown.

Access and use of the Town of Provincetown's Systems is intended for business-related purposes, including communicating with coworkers and colleagues, and researching topics relevant to Town of Provincetown business. All existing state, federal, and local laws and Town of Provincetown policies apply to your conduct while using the Town of Provincetown's Systems, particularly those that govern intellectual property protection, sexual or other harassment, misuse of Town of Provincetown resources, privacy rights, and confidentiality.

This Policy sets forth general guidelines and examples of prohibited uses of the Town of Provincetown's Systems for illustrative purposes, but does not attempt to identify all required or prohibited activities by users. Questions regarding whether a particular activity or use is acceptable should be directed to the Systems administrator, and/or your supervisor. These guidelines may be supplemented by more specific administrative procedures and rules governing day-to-day management and operation of the Town of Provincetown's Systems. Furthermore, this Policy may be amended from time to time, and is meant to be read in conjunction with all other applicable policies of the Town of Provincetown.

Article 2. Privacy

Users should not expect any right of privacy in said Systems, including electronic communications and information made or stored on the Town of Provincetown's Systems. The Town of Provincetown retains the right to inspect its Systems, including any Town of Provincetown-owned or leased computer or electronic communications equipment, any data contained in such equipment, and any data sent or received by that equipment. The Town of Provincetown will exercise that right when reasonable and in pursuit of legitimate needs for supervision, control, and the efficient and proper operation of the workplace. Users should be aware that appropriately-authorized network administrators may monitor network traffic, and/or access all files, including e-mail files and Internet use history, stored on any equipment.

All electronic files and documents originating from or passing through the Town of Provincetown's Systems are considered to be the property of the Town of Provincetown.

Article 3. Security

All usernames and passwords are for the exclusive use of the individual to whom they are assigned. The user is personally responsible and accountable for all activities carried out under his/her username, and should take all reasonable precautions to protect his/her password. The password associated with a particular username must not be given or divulged to another person (with the exception of the Systems administrator). No one may use, or attempt to use, a user-name or password assigned to another person, or pose as another user.

Article 4. *Internet Guidelines*

While we increasingly use the Internet as a tool in the workplace, misuse or abuse of the Internet can result in wasted time, as well as potentially violate laws, bylaws, ordinances, regulations, or other Town of Provincetown policies. Therefore, users should adhere to the following Internet Guidelines.

13-4-1 Use for Official Business: It is the Town of Provincetown's policy to restrict Internet access to official Town of Provincetown business. Use of the Internet for personal matters is prohibited.

13-4-2 Authorization: Authorization for Internet access must be obtained through the Systems administrator. Once authorization is approved, each user is responsible for the security of his or her account password and will be held responsible for all use or misuse of such account (see Section III, Security, above).

13-4-3 Compliance with Laws: Users must not utilize the Internet to knowingly violate any state, federal or local law, or the laws of any other nation. United States copyright and patent laws may apply to information and material(s) accessed through the Internet, and care should be taken to not violate the copyrights or patents of others on or through the use of the Internet.

13-4-4 Viruses: All appropriate precautions should be taken to detect viruses, including scanning all computer files (including attachments) that are downloaded and/or opened from the Internet, before installation or execution of such files/attachments. Users should direct any questions regarding the proper use of virus detection software to the Systems administrator prior to downloading and/or opening any computer files/attachments.

13-4-5 Town of Provincetown Monitoring: As noted above, users should not have any expectation of privacy as to their computer or Internet usage, including the receipt and sending of e-mail. It is possible for the Town of Provincetown to monitor Internet usage histories and/or patterns, and the Town of Provincetown may inspect, without limitation, any portion of its Systems, including files stored either on the computer hard drive or the Town of Provincetown's server, to the extent necessary to ensure compliance with this Policy or any other applicable state, federal, or local law or Town of Provincetown policy.

13-4-6 Prohibited Practices:

- a) Users shall not use Town of Provincetown computers knowingly to download or distribute pirated software or data. Any software or files downloaded via the Internet may be used only in ways that are consistent with their licenses or copyrights. The downloading of games or other programs for amusement/entertainment purposes is strictly prohibited.
- b) Users shall not make an unauthorized attempt to enter into another employee's computer (commonly referred to as "hacking").

- c) All computer hardware and software shall at all times remain the property of the Town of Provincetown, and may not be removed from their respective sites or downloaded onto personal computer equipment without the express written approval of the Systems administrator. The installation or upgrade of computer software programs on computer hardware, without the express written approval of the Systems administrator, is strictly prohibited.
- d) Users must not utilize the Internet to deliberately propagate any virus, worm, "Trojan horse," trap-door or back-door program code, or knowingly disable or overload any computer system, network, or to circumvent any system intended to protect the privacy or security of another user.
- e) Users shall not disclose confidential information, including but not limited to personal information such as social security numbers, dates of birth, and the like. Users shall not promote personal political beliefs, discrimination, sexual harassment, and any unlawful activity; nor shall the Town of Provincetown's computers be used for private financial gain, or commercial, advertising or solicitation purposes.
- f) Use of the Town of Provincetown's Systems, including computers, to display any kind of image or document that is obscene, pornographic, sexually explicit or sexually suggestive, is prohibited. Additionally, these materials may not be archived, stored, distributed, edited, or recorded using Town of Provincetown network, printing, or computing resources.
- g) Users shall not utilize the Town of Provincetown's Systems for the purpose of sending "chain-letters", unsolicited mass e-mails, or other "spam."
- h) Users shall not maliciously use or disrupt the Town of Provincetown's computers, networks, Internet services; nor breach the Systems' security features; nor misuse or damage the Town of Provincetown's equipment; nor misuse passwords or accounts; nor attempt to access unauthorized sites; nor use the Town of Provincetown's Systems after such access has been denied or revoked; nor attempt to delete, erase or otherwise conceal any information stored on any portion of the Town of Provincetown's Systems.

Article 5. *Electronic Mail ("e-mail") Guidelines*

13-5-1 The Internet does not guarantee the privacy and confidentiality of information. Sensitive material transferred over the Internet may be at risk of detection by a third party. Users must exercise caution and care when transferring such material in any form. Each and every electronic communication sent through the Town of Provincetown's Systems must include the following message:

This electronic message is confidential and intended for the named recipient only. Any dissemination, disclosure or distribution of the contents of this communication is unlawful and prohibited. If you have received this message in

error, please contact by return email or telephone (Department's Telephone Number), and delete the copy you received. Thank you.

13-5-2 The Secretary of State's Office of the Commonwealth has determined that e-mail qualifies as "public records", as defined in Chapter 4, section 7(26) of the Massachusetts General Laws. Therefore, all e-mail mail sent by or received through the Town of Provincetown's Systems shall be archived by the Systems administrator. All users shall retain either a printed or digital record of e-mail sent by or received through the Town of Provincetown's Systems, in the same manner that other paper records are kept by their departments, and in accordance with the Record Retention requirements.

13-5-3 Users should be aware that opening programs or files attached to email messages may cause computer viruses to infect the Town of Provincetown's Systems, and thus should only open such attachments from anticipated and trusted sources.

13-5-4 Employees shall not broadcast messages to all employees via e-mail without permission from the Town Manager.

Article 6. Telephone Usage

Telephones (including cellular phones) are provided for business use. Personal telephone calls may be permitted, but users should exercise good judgment in making such calls. Managers/department heads are responsible for monitoring their employees' telephone usage. Excessive usage for non-business related purposes, as well as misuse of telephones, such as to make harassing or threatening calls, may result in discipline, up to and including termination from employment.

Article 7. Violations of Policy

A violation/violations of this Policy may result in either the suspension or permanent loss of the privilege to use the Town of Provincetown's Systems. It may also result in disciplinary action being taken against the employee, up to and including termination from employment. Additionally, users shall be personally liable for any losses, costs or damages incurred by the Town of Provincetown related to violations of this Policy. Similarly, the illegal use of the Town of Provincetown's Systems may result in referral to law enforcement authorities. Employees shall report violations of this Policy to their supervisor, or in the case of department heads, directly to the Town Manager. Retaliation against another user for reporting a violation or violations of this Policy, including the use of e-mail or the Internet in a retaliatory manner, is strictly prohibited by the Town of Provincetown.

Article 8. Social Media Policy

I. PURPOSE AND SCOPE

The Town of Provincetown ("Town") recognizes the importance of online social media networks as a communication tool. The use of social media presents certain risks, and carries with it certain responsibilities. Social Media, while a new form of activity, does

not change the law or expectations around public service. The Town recognizes that employees and officials have the right to participate as citizens in public forums and discussions (including social media platforms) on matters of public concern. However, that right is balanced against the legitimate interests of the Town in promoting accountability, responsible and mature judgment, and the efficiency of the public services it performs through its employees and officials. The goal is to ensure that use of social media advances, rather than impedes, the operation of government.

To that end, this policy establishes guidelines for the personal use of social media (Section II), as well as for the official use of social media by Town employees and officials, for government-related purposes (Section III).

The Policy applies to all employees, officers, and officials (elected or appointed) of the Town of Provincetown. Employees whose employment is governed by law or a collective bargaining agreement are subject only to those provisions of this Policy not specifically regulated by law or agreement.

This Policy is to be read in conjunction with all other applicable policies and rules of the Town, including but not limited to the Town's Personnel Rules, Chapters 5 (Standards of Conduct), 6 (Disciplinary Action), and 13 (Electronic Communications and Computer Usage Policy). It may be amended from time to time, and may be supplemented with additional administrative procedures and rules as may be issued.

Nothing in this Policy is designed to interfere with, restrain or prevent employee communications that are otherwise protected under law (i.e., First Amendment, Whistleblower, Union Activities).

A. Definitions

The following definitions apply for purposes of this Policy.

1. "Social media" includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's web log or blog, journal or diary, personal web site, social networking or affinity web site, web bulletin board or a chat room, whether or not associated or affiliated with the Town, as well as any other form of electronic communication.
2. "Social media sites" and "social networking sites" refer to websites that facilitate user participation, networking, and collaboration through the submission of user generated content, including but not limited to tools such as: blogs; wikis; microblogging sites, such as Twitter; social networking sites, such as Facebook and

LinkedIn; video sharing sites, such as YouTube; messaging applications such as Snapchat and Instagram; and bookmarking sites such as Pinterest.

3. A “social media identity” is a specific user identity or account that has been registered on a third party social media site.
4. A “blog” (an abridgement of the term web log) is a website with regular entries of commentary, descriptions of events, or other material such as graphics or video.
5. A “moderator” is an authorized Town of Provincetown official (appointed or elected) or employee, who reviews, authorizes and allows content submitted by the Town officials, employees and public commentators to be posted to a Town of Provincetown social media site or sites.
6. “Town Systems” are any electronic communication and information equipment and systems. Such Systems include, but are not limited to, computer workstations, hardware and software, electronic mail (e-mail), telephones, cellular phones, “smartphone”/PDA-style devices, tablets, pagers, facsimile machines, and the Internet.
7. “Town social media site” is any official social media site established by or for a Town department, with the authorization of the Town Manager.

II. GUIDELINES FOR PERSONAL USE OF SOCIAL MEDIA

All employees and officials are responsible for what they post online. Through this Policy, the Town is not intending to act as “thought police” or otherwise unnecessarily intrude upon the personal associations and relationships of employees and officials. However, the impact of social media participation by employees and officials upon the ability of Town government to function efficiently and effectively cannot be ignored. Any conduct that exposes the Town to legal liability, or adversely affects individual or collective job performance or the Town’s legitimate business interests, may result in disciplinary action up to and including termination.

A. Required Conduct

1. Whenever the topic is one related to the functioning or operations of Town government, including any matter pending or reasonably anticipated to be pending before any Town board, committee, commission, or Town Meeting, all personal posts on any social media site shall contain an express statement that “The postings on this site are my own and do not represent the views, positions or opinions of the Town” or similar disclaimer. Employees and officials should

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not, except as authorized by their supervisor or board, represent themselves as a spokesperson for the Town.

2. Employees and officials shall ensure that postings are consistent with the requirements of both state and federal law, the rules of any social media site on which the employee/official is participating, as well as the Town's policies. Employees and officials are advised to carefully read these guidelines, together with all of the Town's policies, including but not limited to the Town's Electronic Communications and Computer Use Policy, Sexual Harassment Policy, or any other Policy contained in the Town's Personnel Rules.
3. Employees and officials should always be fair and courteous to fellow officials, employees and the public when posting, as they are required to do so in any public forum. Rude or unprofessional commentary, whether in person, in a public setting, or online can serve to discredit Town government as a whole.
4. Department heads and other employees or officials with policy-making authority must be mindful that there is greater risk that their comments or conduct while participating in social media may have a direct and negative impact upon the integrity of their board/committee or department and the public's perception of Town government as a whole. Furthermore, there is a greater likelihood that the public will view their conduct/comments as representative of an official position or policy of the Town, even when personal disclaimers are made. Department heads and employees or officials with policy-making authority must take great care that their personal participation in social media does not undermine the Town's ability to effectively and efficiently provide necessary public services.

B. Prohibited Conduct

1. No Town Systems are to be used to make personal posts on any social media site or platform.
2. No personal posts shall be made during work time.
3. Town e-mail addresses should not be used to register on social networks, blogs, or other online tools utilized for personal use, and should not be used when setting up or establishing social media sites.
4. Per G.L. c. 268, §35, no employee or official shall post the Town Seal on any Internet site [i.e., social media network, website, blog site] or in any other Internet and/or social media communication or posting, with intent to give to such site or

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posting an official character which it does not possess, or unless authorized in writing in advance by the Town Manager.

5. No employee or official shall post images, or audio or video footage, of co-workers or other Town officials without consent from those individual(s). Employees and officials are prohibited from posting any images of nonpublic areas of the Town's premises and property, without prior authorization of the Town Manager or his/her designee.
6. Inappropriate postings that include, for example, discriminatory comments/remarks, harassment, bullying, and/or threats of violence or similar inappropriate or unlawful conduct, will not be tolerated.
7. Do not post internal reports, draft policies, procedures, or other internal confidential communications or documents. Maintain the confidentiality of the Town's procedures for the development of policy and other such data exempt from the Public Records Law. The state Conflict of Interest Law [G.L. c. 268A, §23(c)(2)] expressly prohibits an employee or official from improperly disclosing materials or data obtained in the course of official duties, that is otherwise exempt from disclosure under the Public Records Law, and further prohibits the use of such information to further "personal interest." If an employee or official has a question about whether information is appropriately considered public or not, s/he should the Town Clerk's Office.
8. Do not post information about others that is protected from public disclosure by law, such as: Criminal Offender Record Information, HIPAA-protected information and any other personal medical information, information concerning allegations of domestic violence and abuse, information protected under student privacy statutes, and the like.
9. Employees and officials should not comment upon rumors or political disputes related to or concerning Town government, or Town employees and officials.
10. Employees and officials operating personal social media sites are subject to the same guidelines as above for the operation and administration of sites under their control, when focusing on topics relating to the functioning or operations of Town government. The site should clearly indicate their participation and carry a disclaimer that "The operation and administration of this site are my own and do not represent the views, positions or opinions of the Town" in order to avoid the appearance of being an official Town social media site.

11. Members of multi-member boards, committees and commissions must be mindful of the requirements of the Open Meeting Law, when participating in social media, in both personal and (where authorized) official capacities. A quorum of a board/committee/ commission should avoid posting on social media sites discussing topics relating to the functioning or operations of Town government, or on topics relating to matters under that board/committee/commission's jurisdiction, as doing so may violate the Open Meeting Law.

C. Permitted Conduct

1. Employees and officials may include, in their social media personal profiles, their job titles, as well as information about their personal participation in Town sponsored-events, including volunteer activities Employees shall not include the official titles when posting personal statements as per Section II.A. (1) and Section III.A (14) of this policy.

III. USE OF SOCIAL MEDIA SITES FOR OFFICIAL PROVINCETOWN PURPOSES

The Town of Provincetown permits departments to utilize social media sites and social networking sites (collectively “social media sites”) to further enhance communications with its residents and various stakeholders in support of Provincetown goals and objectives. Provincetown officials and Provincetown departments have the ability to publish articles, facilitate discussions and communicate information through such media to conduct official Provincetown business. Social media sites facilitate further discussion of Provincetown government business, operations and services by providing members of the public the opportunity to participate in many ways using the Internet. The Town has the ability to place limitations and restrictions upon the content of its website and social media sites. This section of the policy sets forth requirements that must be adhered to with respect to utilization of social media sites for official Provincetown purposes, as well as explanatory guidance.

A. General Requirements for Establishment and Maintenance of Official Town Social Media Sites

1. All Town social media sites shall be:
 - a) approved by the Town Manager with a documented letter of approval.

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b) published using social media platform and tools approved by the Information Technology Department (“IT”).

2. The official posting for the Town will be done by the Town Manager or his/her designee(s).

3. Subject to prior approval of the Town Manager, departments have the option of allowing employees to participate in existing social media sites as part of their job duties, or allowing employees to create social media sites as part of their job duties. Department Heads may allow or disallow employee participation in any social media activities in their departments.

4. All Town social media sites shall adhere to applicable state, federal and local laws, regulations and policies including the Open Meeting Law, Public Records Law, Public Records retention schedules, Conflict of Interest Law, Copyright Law, Campaign and Political Finance laws and rules, and other applicable Town policies.

5. Because Public Records Law and e-discovery laws and policies apply to social media content, such content must be able to be managed, stored and retrieved to comply with these laws. Posts, once made, should not be deleted or amended, except for typographical errors, and a record shall be kept of any such modifications.

6. All social media sites and entries shall clearly indicate that any content posted or submitted is subject to public disclosure. Wherever possible, social media sites should be set up so as to not permit anonymous posters/postings.

7. Each Town social media site shall include an introductory statement which clearly specifies the purpose and topical scope of the blog and social media/network site. Where possible, social media sites should link back to the official Town of Provincetown Internet site for forms, documents and other information.

8. Each Town social media site shall indicate to users that the site is subject to a third party’s website Terms of Service. Furthermore, each Town social media site shall indicate that: the social media site provider could collect personal information through user’s use of the social media site; and that this personal information may be disseminated by the third party; and that such dissemination may not be governed or limited by any state, federal or local law or policy applicable to the Town.

9. All Town social media sites shall clearly indicate that they are maintained by the Town of Provincetown and shall have the Town of Provincetown contact information prominently displayed, and if possible the Town Seal.

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10. The Town reserves the right to restrict or remove any content that is deemed in violation of this policy or any applicable law.

11. Town social media content and comments containing any of the following forms of content shall not be allowed for posting:

- a) Comments not topically related to the particular site or blog article being commented upon;
- b) Profane, obscene, or vulgar language or content;
- c) Comments or content that are denigrating, threatening, insulting, bullying or harassing;
- d) Content that promotes, fosters or perpetuates discrimination on the basis of race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, maternity leave, genetic information, active military status, or any other status protected by the law;
- e) Sexual content or links to sexual content;
- f) Conduct or encouragement of illegal activity;
- g) Information that may tend to compromise the safety or security of the public or public systems;
- h) Content that violates a legal ownership interest of any other party;
- i) Protected health information;
- j) Personnel data; or
- k) Other information that is not public record or is otherwise privileged from public disclosure.

12. All Town social media moderators shall be trained regarding the terms of this policy, including their responsibilities to review content submitted for posting to ensure compliance with the policy.

13. To the extent applicable, Town IT security policies shall apply to all social media sites and articles.

14. Officials (elected or appointed) and employees representing the Town via social media sites must conduct themselves at all times as a representative of the Town and in accordance with all applicable rules, regulations, and policies (including personnel policies) of the Town of Provincetown. Any Town employee or official, Town board member or Town committee member shall not use a title unless they are posting in an official capacity or on an official Town social media site, with authority to do so.

15. No Town or department social media site can endorse or otherwise cite (either with approval or disapproval) vendors, suppliers, clients, citizens, co-workers or other stakeholders. As prohibited by the Town's Personnel Rules, Sections 5-2-1 and 5-2-2,

employees may not engage in political activity during working hours, and may also not engage in political activity aimed at co-workers on Town owned property being used as a work area. This would include, but not be limited to, engaging in political activity, including the endorsement of any candidate for elective office, via a Town social media site.

16. Employees found in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

B. Employee Guidelines for Use of Official Town Social Media Sites:

The following provides further explanation of the requirements for Town media social media site, set forth in Section A, above.

1. Electronic Communications and Computer Usage Policy. All employees are responsible for understanding and following the Town's Electronic Communications and Computer Usage Policy, in addition to this Policy.

2. First Amendment Protected Speech. Although the Town can moderate the social media sites that accept comments from the public (such as blogs and wikis) to restrict speech that is obscene, threatening, discriminatory, harassing, or off topic, employees cannot use the moderation function to restrict speech with which the Town merely disagrees (i.e. subject matter restrictions). Users have some First Amendment rights in posting content to public social media sites hosted by municipalities. Moderators must respect those rights by posting all comments other than those excluded for specific legitimate reasons, as referenced above.

3. Copyright Law. Employees and officials must abide by laws governing copyright and fair use of copyrighted material owned by others, including written material, photography, videography and digital media. Never reprint whole articles or publications without first receiving written permission from the publication owner. Never quote more than a short excerpt of someone else's work without acknowledging the source and, if possible, provide a link to the original.

4. Conflict of Interest. Employees are prohibited from using social media to engage in any activity that constitutes a conflict of interest for the Town or any of its employees, as defined by G.L. c. 268A.

5. Protect Confidential Information. Employees are prohibited from posting legally protected personal information that has been obtained during the course of performing official duties (e.g., information that is not public record under the Public Records Law, G.L. c.66, §10 and G.L. c. 4, §7(26), or whose dissemination is restricted under

applicable Federal or State privacy laws or regulations). Conversations that occur amongst Town officials/employees outside public forums should not be published or reported on, unless authorized by the Town Manager. Information about policies, rules, or plans that have not been finalized or officially adopted by the Town should not be posted unless explicitly approved in advance by the Town Manager or relevant Department Head, for instance, where public comment or input is being solicited.

6. Consider Content. Town social media sites are not an appropriate forum for commentary about rumors, political disputes, , and such comments are not permitted. Similar concerns exist for personal participation by senior officials on social media; see Section II.B(9)). As informal as social media sites are meant to be, if they are on a government domain or a government identity, they are official government communications. Social media sites will be sought out by mainstream media, and therefore, thought needs to go into how to use the social media in a way that benefits both the Town and the public.

7. Handling Negative Comments. Because the purpose of many social media sites, particularly department blogs and wikis, is to get feedback from the public, it is anticipated that some of the feedback received will be negative. Some effective ways to respond to negative comments should include:

- a) Providing accurate information in the spirit of being helpful;
- b) Respectfully disagreeing; and
- c) Acknowledging that it is possible to hold different points of view.

8. Respect the Audience and Town Employees and Officials. Ethnic slurs, personal insults, obscenity, or any conduct that would not be acceptable in the workplace, is not permitted when using Town's social media sites. This includes not only the obvious (no ethnic slurs, personal insults, obscenity, threats of violence, etc.) but also proper consideration of privacy and of topics that may be considered objectionable or inflammatory—such as party politics and religion. The Town's social media presence should not be used to communicate among Town employees for work purposes

9. Use the Social Media Site or Identity Only to Contribute to the Town's/Department's Mission. All postings should provide worthwhile information and perspective that contributes to the Town's and/or department's mission of serving the public. What is published on Town social media sites reflects on the Town and Town government. Social media sites and identities should be used in a way that contributes to the Town's mission by:

- a) Helping Town employees and officials perform their jobs better;
- b) Informing citizens about government services and how to access them;
- c) Making government operations transparent and accessible to the public;

- d) Creating a forum for the receipt of candid comments from residents about how government can be improved; and
- e) Encouraging civic engagement.

10. Mistakes. The Town's policy is that once something is posted on a Town social media site, it should stay posted. Only spelling errors or grammar fixes should be made without making the change evident to users. If the decision is made to modify an earlier post, make it clear that this has been done—do not remove or delete the incorrect content; provide the correct information and where appropriate, apologize for the error. Ways to accomplish this include:

- a) Strike through the error and correct; or
- b) Create a new post with the correct information, and link to it from the post that is being corrected or clarified.

Either method is acceptable. In order for the social media identity or site to achieve transparency, the Town cannot change content that has already been published without making the changes clearly evident to users.

11. Defamation. Be aware that employees acting in their individual capacity (not on behalf of the Town) are not immune from defamation claims. Under Massachusetts law, defamation is established by showing that the defendant published a false, non-privileged statement about the plaintiff to a third party that either caused the plaintiff economic loss or was of the type that is actionable without proof of economic loss. Some statements, like imputation of a crime, are defamatory per se. Avoid statements that may be interpreted as defamatory.

12. Records Retention. Social media sites will contain communications sent to or received by Town officials and employees, and are therefore Public Records. Ensure that the Town or department retains a copy of the social media content in accordance with Public Records Retention Schedules. Review the third party social media service provider's terms of service for its record retention practices. Note that while third party social media providers will most likely save content for some period of time, they generally will not save it indefinitely. To the extent their policies are inconsistent with Public Records Retention Schedules, the Town or department should retain copies of social media posts such as by printing or otherwise storing periodic "snapshots" of the social media sites.

13. Open Meeting Law. Be aware of the Open Meeting Law and possible violations for improper deliberations outside of a posted meeting. A series of individual postings on a social media site by members of a public body cumulatively may convey the position of a quorum regarding a subject within its jurisdiction, and may constitute improper

deliberation among the members of a board or committee.

IV. Media Contacts

Oftentimes, presence on social media can lead to inquiries from the press or media. Employees should not speak to the media on the Town's behalf, unless specifically authorized by the Town Manager. All media inquiries should be directed to the Town Manager's Office.

V. Retaliation is Prohibited

The Town prohibits taking negative action against any employee for reporting a possible deviation from, or violation of, this Policy, or for cooperating in an investigation of same.

VI. For More Information

If you have questions or need further guidance regarding the Town's Social Media Policy, please contact the Town Manager's Office.

ELECTRONIC COMMUNICATIONS AND COMPUTER USAGE POLICY

This acknowledges that I have received and reviewed the Electronic Communications and Computer Usage Policy of the Town of Provincetown of (“Policy”). By signing this form, I agree to abide by the Policy and any Guidelines promulgated thereunder, and I agree to review periodically any changes or modifications. I recognize that the law and associated Policy regarding the use of Internet, electronic mail and the Town of Provincetown’s electronic communications and information systems are continually evolving. Therefore, I understand that my regular review of policy is required.

Print Name: _____

Signature: _____

Date: _____

To be included in employee’s personnel file.