

Chapter 138
PERSONNEL PLAN

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[HISTORY: Adopted by the Board of Selectmen of the Town of Plaistow 1-1-1980, as revised 3-9-1998. Subsequent amendments noted where applicable.]

ARTICLE I

Purpose and Introduction

§ 138-1. Introduction.

The Town of Plaistow is a full-service community, governed under the Town Meeting, Selectmen, Town Manager form of government. A member of the New Hampshire Municipal Association and ICMA recognized, the town operates various departments to fulfill its governmental functions as required by law, ordinance and good practical community assessment.

§ 138-2. Purpose.

- A. The purpose of this plan is to establish personnel policies and procedures for nonrepresented employees and to inform those employees of certain conditions of employment in the service of the Town of Plaistow.
- B. It is not the intention of this policy to offer or imply any contract and/or guaranty to the nonunion employees of the Town of Plaistow. It is important to understand that this document is approved by the Board of Selectmen and thus may be changed by the Selectmen. Issues not specifically referred to or those that may from time to time require interpretation may be resolved at the discretion of the Town Manager.

§ 138-3. Scope.

- A. In regards to wages and benefits, these rules and regulations will apply to all full-time and part-time nonrepresented employees, excluding elected officials, call fire fighters and library personnel with exception to Section F (Employee Assistance Program Policy) and unless other provisions allow coverage such as in the case of the present town health insurance provider. The Town Manager is covered under a separate employment contract and is not subject to the rules and regulations contained herein unless specifically mentioned herein, in the Town Manager's employment contract, or otherwise provided for by law.
- B. In regards to workplace conditions, and specifically as covered by state or federal law, these rules and regulations apply to all personnel, elected officials, appointed officials, volunteers, consumers and others as they relate to the employee or employer. As appropriate and in accordance with law, this will include the Americans with Disabilities Act and Equal Opportunity Employment and Sexual Harassment Policies.

§ 138-4. Effect on prior plan; review and amendment.

This plan supersedes any previous personnel plan adopted by the Town of Plaistow as of its effective date. This plan may be reviewed periodically by the Town Manager and amended subject to Board of Selectmen approval.

§ 138-5. Definitions.

As used in this plan, the following terms shall have the meanings indicated:

CLASSIFICATION/SPECIFICATION — An outline of the duties, responsibilities, knowledge, skills and abilities which comprise a specific type of position within the structure of town government.

DEPARTMENT HEAD — An individual responsible by statute or by grant of authority of the Board of Selectmen and/or Town Manager for the overall operation of a department of the Town of Plaistow. That individual may also have the authority to adopt, subject to the approval of the Board of Selectmen and/or Town Manager, rules and regulations for the operation of his or her department.

FULL-TIME EMPLOYEE — A position scheduled for full-time work, i.e., 40 hours per week.

JOB DESCRIPTION — Written summary of duties assigned to a specific job.

MERIT INCREASE — A salary adjustment approved by the Town Manager.

ON-CALL EMPLOYEES — Those employees who, regardless of the number of hours they work, are called or assigned to duty irregularly.

PART-TIME EMPLOYEE — A position scheduled for less than full time work, i.e., less than 40 hours per week.

PAY CLASSIFICATION — The minimum and maximum rates of compensation for both hourly and salaried positions that may be established and amended by the Town Manager for any established town position.

PROBATIONARY EMPLOYMENT/PROBATIONARY APPOINTMENT — In addition to such statutory requirements as may exist, the six-month period following the appointment of any employee to a position in the employment of the town or the six-month period following the appointment of any employee to a position of higher rank in regards to wages and/or responsibilities.

SALARIED EMPLOYEES — Those employees whose compensation is set at an annual rate without conversion to an hourly rate or to the number of hours worked. Salaried employees are exempt from overtime compensation.

SEASONAL EMPLOYEES — Those employees retained by the town for temporary employment, whether full time or part time, to fill a specified need at a particular time of the year.

SUPERVISOR — An individual who directs and coordinates the activities of other employees and who has the authority to recommend the hiring, disciplining and firing of employees to a department head.

ARTICLE II
Administration

§ 138-6. Authority to establish personnel procedures.

The establishment, interpretation and modification of the town personnel matters and procedures shall rest with the Board of Selectmen and/or Town Manager.

§ 138-7. Town Manager.

The Town Manager, subject to review and approval by the Board of Selectmen, may be responsible for the following in addition to other statutory duties:

- A. Administering and enforcing the personnel policies, procedures and regulations contained herein.
- B. Preparing and recommending position classification and pay plans to the Selectmen and directing the administration of such plans.
- C. Computing, for budget preparation purposes, the annual salary costs.
- D. Directing recruiting and testing of employees and applicants for employment.
- E. Developing and maintaining the procedures, forms and recordkeeping methods of the personnel system established herein.
- F. Preparing and maintaining a roster of all persons employed in the town service.
- G. Recording appointments, promotions, demotions and disciplinary and other personnel actions.
- H. Developing and administering employee performance evaluation procedures.
- I. Administering all employee benefit programs and making available to the employees, by posting and other publications, pertinent information about availing themselves of benefits to which they are entitled.

§ 138-8. Department heads.

Department heads, subject to review and approval by the Town Manager and/or the Board of Selectmen, shall be responsible for the appointment, retention, transfer, promotion, discipline and separation of employees in their respective departments in accordance with these procedures and policies. They are expected to supervise their employees; to report on the efficiency and performance of their subordinates; and to notify the Town Manager of changes in the duties and responsibilities of their employees.

§ 138-9. Employees.

It shall be the responsibility of each employee to acquaint himself or herself thoroughly with the provisions of the Personnel Plan. Employees are encouraged to submit suggestions for changes and improvements in the Personnel Plan to the department heads. A copy of the Personnel Plan shall be delivered to an employee upon hiring. Employees will be requested to sign an acknowledgment of receipt and understanding after being given one week to review the plan.

ARTICLE III
Provisions of Employment

§ 138-10. Equal employment opportunity.

- A. It is the policy of the Town of Plaistow to provide equal opportunity for employment to all persons. Any discrimination against any person in recruitment, examination, appointment, training, promotion, retention, or any personnel action because of political affiliation, race, creed, color, national origin, age, sex, sexual orientation, handicap or any other nonmerited factor shall be prohibited except where such factor is a bona fide occupational requirement.
- B. Accessibility/accommodation statement. The Town of Plaistow does not discriminate on the basis of disability in admission or access to or treatment of employment in its program and activities. Decisions to hire, promote or maintain employment shall be based on essential job functions. In making this decision, all reasonable accommodations for the employee will be made as long as no undue hardship or burden exists for the town.

§ 138-11. Application for employment.

- A. The town may advertise all vacancies, except those to be filled by department reorganization, promotion, transfer, or from part time to full time, in at least one newspaper of general circulation giving the job title and salary range. The Town Manager and department heads may post the notice for the position in conspicuous public places and employee bulletin boards for a period of seven working days. The posting should include the following information: title of job, salary range, minimum qualifications, job location, closing date of application, and job description. Applications and resumes may be received for at least one week after the date of advertisement. If it is in the best interest of the town, the above process may be waived in favor of a recruitment process.
- B. Applications for employment in a classified position with the Town of Plaistow must be made on forms prescribed by the town. Resumes may be used for initial job screening, however. The town's application for employment forms may require whatever information is deemed necessary, including the granting of permission for the town to undertake a confidential examination of an applicant's criminal, motor vehicle and/or employment background, and must be signed by the applicant. All successful candidates for employment should pass a pre-employment physical at the town's expense which will be conducted in accordance with the Americans with Disabilities Act. A physical performed within the past year may be used as a substitute to the above. In addition, the physical may be waived for certain part-time employees at the discretion of the Town Manager.

- C. All town employees shall be eligible for promotion, upgrade, or transfer. Employees desiring consideration for promotions, upgrades or transfers should complete an application when a position becomes available. Filling of positions will be made by the Town Manager or his/her designee(s). Selection will be made from among the qualified candidates on the basis of capacity for the position, experience, ability to perform job tasks and other criteria appropriate for the position to be filled. Upon hiring the employee will receive a written job description, a copy of the Personnel Plan and the Joint Loss Management Program.

§ 138-12. Probationary period.

A. New hires.

- (1) For securing the most effective adjustment of new employees and determining that an employee's work meets the required standards of the town, all appointments shall be made for a probationary period of six months. A department head may extend the probationary period with the approval of the Town Manager, except that the total probationary period shall not exceed 12 months. An extension of the probationary period can be made if, in the judgment of the department head or supervisor, the employee does not meet the standards during the probationary period but shows the potential for improvement given additional training, guidance, and the opportunity to improve. The Town Manager may also extend the initial probationary period.
- (2) Probationary employees will be given a written evaluation by the department head or Town Manager before the end of the fifth month of the probationary period. This written evaluation will make a recommendation as to continued employment. Consultation with the Town Manager will take place prior to the department head/supervisor meeting with the employee under review. An employee may be discharged at any time during the probationary period.
- (3) Once an employee has successfully completed his/her probationary period of employment, the employee's length of service shall be measured from the last date of hire or promotion and becomes eligible for additional benefits as provided in this manual.

B. Promotion.

- (1) For securing the most effective adjustment of the promotee and determining that an employee's work meets the standards required by the new position, all promotions shall be made for a probationary period of six months. A department head may extend the trial period with the approval of the Town Manager, except that the total trial period shall not exceed 12 months. The Town Manager may also extend a promotion probationary period.
- (2) During the trial period the department head shall informally evaluate the performance of the promoted employee on a monthly basis. The department head shall discuss with the employee the area(s) in which the (s)he needs improvement and assist the promotee in correcting any deficiencies. A formal evaluation is to be prepared and submitted before the end of the last month of the probationary period. Comment from

appropriate staff including consultation with the Town Manager shall take place prior to the department head meeting with the employee who is under review.

- (3) If, at the completion of the trial period, the employee does not demonstrate the competence required to carry out the responsibilities of the position, the department head may, with the approval of the Town Manager, cause the employee to be reverted to the promotee's former classification and pay. The Town Manager may also deny a permanent status promotion and place the employee back to his or her former position provided it remains unfilled.

§ 138-13. Employee evaluation.

All employees covered under this Personnel Plan may be given a written evaluation by their immediate supervisor at least once a year. It is the purpose of the evaluation to keep the employee advised of the acceptability of his/her performance and to offer remedial suggestion when needed. The evaluation should be discussed with the employee and signed by both the employee and the evaluator. The employee will have the right to comment on the evaluation. The evaluation and comments will then be forwarded to the Town Manager and placed in the employee's personnel file. Employee performance evaluations are not considered to be disciplinary in nature, and as such performance evaluations are not subject to any appeal process contained within this Personnel Plan.

§ 138-14. Personnel records.

An employee shall be allowed access to his/her personnel file by requesting to view the file in writing to the Town Manager. The file shall be made available in a timely matter and will only be viewed in the presence of the Town Manager or his/her designee. Employees will be requested to sign any documents copied with appropriate notification that the town is no longer liable for the confidentiality of the document's contents. Previous employees of the town will be required to sign a release to obtain any documentation from their personnel file. In no case shall an unauthorized person obtain access to confidential/privileged information from a personnel file.

§ 138-15. Pay plan.

The Town Manager will be responsible for making up a uniform and equitable pay plan for established town personnel. Amendments to the salary plan will be recommended to the Board of Selectmen by the Town Manager when changes in responsibility or work of classes, rates of pay, the town's financial position and policies, or other information warrants such action. Exceptions may be made based on education, experience and skill level qualifications and will be made by the Town Manager, subject to budget finding availability.

§ 138-16. Merit and COLA pay increases.

Nonunion employees may be considered for cost of living adjustment (COLA) increases based on budget availability. Nonunion employees may also be considered for merit increases based

on the past year's job performance and budget availability. After an employee's initial first year evaluation, all subsequent evaluations will be targeted for completion during the month of September to help assist in the budgetary process for the ensuing fiscal year. Increases for merit and COLA will become effective January 1 of the ensuing fiscal year unless otherwise approved by the Town Manager.

§ 138-17. Overtime compensation.

All hourly employees working in excess of 40 hours in a scheduled workweek shall be paid at the rate of time and one-half for all hours worked over 40 hours. Salaried employees are eligible for compensatory time only under special circumstances. A regular workweek is defined as those days and hours normally worked in a specific department. All hours paid during the workweek shall be counted as hours worked for the purposes of determining 40 straight-time hours. The department head and/or Town Manager has the authority to schedule overtime when it is deemed necessary.

§ 138-18. Benefits.

- A. All full-time employees are eligible for the benefits as shown unless otherwise stipulated by separate employment agreement:
 - (1) Health and dental insurance: town pays 90% for employees' plan coverage premium with the employee paying 10% of the premium.
 - (2) Life insurance: town pays 100% of premium for \$10,000 benefit plan, employees only.
 - (3) Disability insurance: town pays 100%.
- B. Employees are eligible the first day of the month following one month of full-time employment or as required by the health provider. The above health and dental insurance carriers are to be determined by the Town Manager and approved by the Board of Selectmen.
- C. Employees who have health insurance coverage under their spouse's plan, or another comparable insurance plan, will be eligible for compensation in lieu of the town's health insurance plan. Full-time employees will be compensated \$10 per week.
- D. Upon termination of employment for any reason (other than misconduct), an insured employee has the option of continuation of health and dental coverage through COBRA at the employee's expense. Spouses and dependents may also qualify for COBRA benefits. Please refer to the subscriber's insurance packet for additional information.
- E. Upon retirement under the provisions of RSA 100-A:5 and RSA 100-A:6, an employee shall be given the option of continuing life and dental insurance at the employee's expense.
- F. All qualifying town employees will be enrolled in the New Hampshire Retirement System as required by state statute.

§ 138-19. Longevity.

- A. For employees covered by this Personnel Plan (excluding the Town Manager), longevity shall be earned in accordance with the following schedule:
- (1) After five continuous years: \$250.
 - (2) After 10 continuous years: \$500.
 - (3) After 15 continuous years: \$750.
 - (4) After 20 continuous years: \$1,000.
- B. Longevity shall be paid annually in a lump sum on the first appropriate pay period in the September after it has been earned. Department heads are responsible to approve and submit longevity payment requests to the Town Manager to meet the September disbursements.

§ 138-20. Uniforms and equipment.

The town shall provide equipment and materials to perform any duty or will rent or pay for on a prorated basis such material without any expense to any employee. Uniforms shall be provided in accordance with the provisions of the prevailing labor contracts and departmental requirements.

§ 138-21. Layoffs.

Any person in the employment of the town may be laid off or have a reduction in hours of work whenever it is necessary to reduce the number of employees in any department because of the shortage of work or funds, abolition of a position, or a change in the department functions and organization. Consideration will be given by the Town Manager to job classification, skills, experience, performance history and seniority when making decisions regarding which employees will be affected. The town will endeavor to provide affected employees with at least 10 working days' notice.

§ 138-22. Demotion.

- A. An employee may be demoted to a position of lower grade for which qualified for any of the following reasons:
- (1) When an employee would otherwise be laid off because a position is being abolished, a position is being reclassified to higher grade, lack of work, lack of funds, or because of the return to work from authorized leave of another employee to such a position in accordance with applicable rules contained herein.
 - (2) When an employee does not possess the necessary qualifications to render satisfactory service in the position held, or when removed during probation.
- B. All demotions must receive the approval of the Town Manager. An appeal may be filed as specified herein.

§ 138-23. Resignations.

Employees may resign at any time. They are expected to give at least two weeks' notice of their intention to resign. Department heads are expected to give at least four weeks' notice. All resignations shall be given in writing to an employee's immediate supervisor and forwarded to the Town Manager.

§ 138-24. Smoking policy.¹

In order to accommodate both the general public's, management's and employees' interest in making the town buildings a smoke-free and safe atmosphere, the following policy is established under New Hampshire RSA 155: No smoking will be allowed in the Town Hall or in any other town building or in any town vehicle. The buildings will be properly posted and the policy may be enforced by the Town Manager or his/her designee. Employees failing to respect this policy may be subject to disciplinary action.

§ 138-25. Town vehicles and mileage.

- A. Plaistow town vehicles are assigned to certain staff and employees for the purpose of immediate, effective and coordinated emergency response to situations in the town. Vehicles assigned should be kept in a ready state but not operated at any time in an unsafe or unprofessional manner.
- B. Unless specifically authorized by the Town Manager or Board of Selectmen, vehicles are for business use only. All Plaistow vehicles shall predominantly bear the seal of the Town of Plaistow, with the exception of unmarked police cars used for surveillance. Additional seals may include the official Town Seal, Police and Fire Department seals and other seals approved by the Board of Selectmen.
- C. All town employees who use private vehicles for official town business are entitled to reimbursement for mileage. The reimbursement rate for nonunion employees shall be established by the Town Manager, subject to Board of Selectmen approval.

§ 138-26. Dress code.

As employees of a local government, frequently visited by residents of the town and officials of other governments and businesses, it is important that office work areas be neat and clean and dress be appropriate for a business setting during normal work hours. Staff should consider their persona when determining appropriate attire; questions should be directed to individual supervisors.

¹ Editor's Note: See also Ch. 168, Smoking.

ARTICLE IV
Attendance and Leave Regulations

§ 138-27. Holidays.

- A. The following paid holidays are observed by the Town of Plaistow:
- (1) New Year's Day.
 - (2) Presidents Day.
 - (3) Memorial Day.
 - (4) Independence Day.
 - (5) Labor Day.
 - (6) Columbus Day.
 - (7) Veterans Day.
 - (8) Thanksgiving Day and the day following.
 - (9) Christmas Day and the day following or the day prior to Christmas Day (depending upon the day of the week on which Christmas Day falls each year). Announcement of the day will be made by the Town Manager prior to December 15.
- B. When holidays fall on a Saturday, it will be observed on Friday; should a holiday fall on a Sunday, it will be observed on Monday. When a holiday occurs during an employee's vacation, an alternate day may be taken at a later date.
- C. Employees who are absent for unauthorized reasons on the day directly preceding or directly following the holiday shall forfeit pay for the holiday.
- D. Regularly scheduled part-time employees are entitled to holiday benefits equal to the hours normally scheduled to work on the day of the holiday.

§ 138-28. Emergency situations.

- A. In cases of bad weather, power failure or other unforeseen problems, the Town Manager may shut down the place of employment and send employees home. In those cases employees shall be paid for the day's work. Extended periods of shutdown may be treated as a layoff.
- B. When the Town Manager does not shut down the place of employment but employees are concerned about similar problems, they may take unscheduled vacations days upon authorization of the Town Manager.

§ 138-29. Vacation.

- A. Vacations may be scheduled throughout the year but must be approved in advance by the employee's department head. Department heads' vacation requests must be approved in advance by the Town Manager. Such approvals shall not be withheld unreasonably.

Annual vacation entitlement will renew on the anniversary date of hire. Earned vacation must be used prior to the next anniversary date of hire or be forfeited. The Town Manager may grant an extension to the above, but in no case will more than 10 working days be carried over.

- B. Vacation request forms will be provided to the department heads and are filled out by the employee. These must be approved by the department head prior to the taking of vacation time.
- C. Eligibility. Each full-time employee shall be entitled to one week (five working days) of paid vacation after six months of service to the town. After one year of service to the town, an employee is entitled to two weeks (10 working days) of paid vacation annually. After five years of service to the town, an employee is entitled to three weeks (15 working days) of paid vacation annually. After 10 years of service to the town, an employee will add one day of vacation entitlement for each year of service to the town over nine years, up to a maximum of 20 days of paid vacation annually.
- D. Regularly scheduled part-time employees receive vacation benefits but do not begin to accrue earned time until completion of the six-month probationary period. A vacation week for regularly scheduled part-time employees shall be the current average weekly hours worked and/or budgeted for the year and as approved by the Town Manager.
- E. Employees are encouraged to take vacation time in one-week increments so that they serve the intended purpose of rest and relaxation and time away from work.
- F. Any employee who terminates employment with the town shall be entitled, after one year, to the pro rata accrual of unused vacation time to the date of termination provided (s)he gives adequate written notification of resignation. The pro rata vacation accrual shall be computed from the employment anniversary date.

§ 138-30. Sick leave.

- A. Sick leave is considered to be an emergency fringe benefit used only as needed. Employees absent must report their absence to the department head, stating the reason for absence, within ½ hour of the time they are scheduled to report to work, unless physically unable to. Failure to do so will result in the forfeiture of pay. The town reserves the right to request a statement from a qualified doctor for any time missed due to illness, and a return to work certificate may be required of those employees who have been ill as a result of a communicable disease. Chronic cases of absenteeism due to illness shall be reviewed periodically and a determination regarding continued payment and/or continued employment will be made by the Town Manager.
- B. Provided the employee has accrued sick leave, paid sick leave may be granted for the following:
 - (1) Bodily injury, disease or illness.
 - (2) Illness in the employee's immediate family. The immediate family shall include spouse, children, mother, father, mother-in-law and father-in-law.
 - (3) Exposure to contagious disease/quarantine.

- C. After six months of service to the town, full-time employees shall be entitled to paid sick leave. All nonunion employees will receive the normal 12 days afforded to them. An employee must pool at least six of these days and may buy back the remainder of the unused portion to be paid in the first pay period of the following December. The following is an example for a new employee:

Example

Yearly Allowance	Accumulation	Minimum Buy Back	Pool
Dec. 1997 12 +	0 -	6 =	6
Dec. 1998 12 +	6 -	6 =	12
Dec. 1999 12 +	12 -	6 =	18

- D. There will be a minimum of 20 sick days in the sick pool for all employees in this plan after a period of four years. To obtain this minimum, an employee must take only the minimum allowed sick days for a period of four consecutive years. After the four years, an employee may buy back the amount of unused sick days, leaving the minimum amount of 20 days in the pool.
- E. An employee may accumulate up to, but no more than, a maximum of 90 days in the pool. Upon the employee leaving his/her employment with the Town of Plaistow, (s)he will be paid for the remaining half of his/her accumulated amount of sick days over the minimum amount of 20.
- F. If an employee wishes to buy back more than 12 sick days, he/she must notify the Town Manager in writing, two months in advance. The Town Manager has the right to refuse an amount over 12 days.

§ 138-31. Bereavement leave.

- A. An employee shall be granted up to three consecutive paid working days of leave upon a death in his/her immediate family. Immediate family shall include the following: spouse, (step)mother, (step)father, (step)son, (step)daughter, (step)brother, (step)sister, grandmother, grandfather, grandchild, ward, or relative residing in the employee's home.
- B. Special leave of one working day with pay shall be granted an employee for the purpose of attending the funeral in the event of death of his/her sister-in-law, brother-in-law, aunt, or uncle. Exceptions may be made by the Town Manager.

§ 138-32. Leave of absence.

- A. Unpaid leaves of absence may be granted for a specified length of time for personal reasons. Requests must be made to the department head or Town Manager. Unpaid personal leaves of absence of up to 30 days may be approved at the discretion of the Town Manager. Leaves of absence longer than 30 days require the approval of the Board of Selectmen. Such leave of absence without pay shall not exceed six months in length and

shall only be granted when it appears, because of the past records of the employee, or because of the purpose for which the leave is requested, that it is in the best interest of the town to grant the leave. In no case shall a leave of absence be approved for the employee to look for or perform another job or to start another business.

- B. During approved unpaid leaves of absence, employees will forfeit all fringe benefits, including health and dental insurance, workmen's compensation, disability and life insurance, and shall accrue neither vacation nor sick leave. An employee appearing for work on the designated date of return shall be restored to the pay status and benefit level (s)he was at prior to the leave of absence. If an employee does not return to work on the designated date or receive an extension of leave, (s)he will be considered to have voluntarily left employment with the town.
- C. Depending upon the nature of the position and upon request of the Town Manager and Selectmen's approval, a temporary employee may be hired for the duration of the leave of absence. This temporary employee will not be extended any fringe benefits offered by the town other than workmen's compensation and disability insurance or other federal/state mandated items.

§ 138-33. Military leave.

To foster and encourage service in the United States Military Reserves and the National Guard, the town will pay any full-time employee who is a member of the United States Military Reserve and the National Guard the difference between his or her military pay and the employee's regular weekly straight-time pay when on normal annual training sessions. Payment of the above-stated differentials shall not apply to regular monthly meetings or when the employee enters full-time active duty.

§ 138-34. Jury duty.

- A. The Town of Plaistow agrees to pay any full-time employee who serves as a juror in a legally constituted court the difference between earnings as a juror and the average straight-time hourly earnings which would have been realized had the employee worked his/her normal shift(s). In addition to jury duty, those employees who are subpoenaed to testify in court or before boards/commissions shall be paid for time spent testifying based on the employee's regular rate of pay.
- B. The employee must notify the employer within a reasonable time after the receipt of notice of selection for jury duty in order to be eligible for payment. He/she must also produce a written statement from the appropriate public officials showing the date and time served and the amount of pay received.

§ 138-35. Personal leave.

All full-time town employees shall be allowed two noncumulative days of leave in each calendar year for their personal use, which shall not be deducted from other leave accruals. Personal leave is not intended to be used as extension of a holiday or vacation period. Rather it

is intended for use for events of a serious, urgent, and unexpected nature. In the event that circumstances require such use, the employer may ask the employee for a brief description of the circumstances.

§ 138-36. Family and Medical Leave Act of 1993 (FMLA).

A. Definitions and leave requirement.

- (1) FMLA requires the Town of Plaistow to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. "Eligible employees" refers to those who have worked for the town for at least one year and for 1,250 hours over the previous twelve-month period. FMLA leave during this twelve-month period will be measured backwards from the date an employee uses any FMLA leave. Leave may be granted after the Town Manager's receipt of the proper written application and his/her subsequent approval of the terms of the leave.
- (2) Unpaid leave will be granted for any of the following reasons:
 - (a) To care for the employee's child after birth or placement for adoption or foster care;
 - (b) To care for the employee's spouse, son, or daughter or parent who has serious health conditions; or
 - (c) For a serious health condition that makes the employee unable to perform the employee's job.
- (3) Leave may be taken for childbirth or adoption or foster care placement of a child only within 12 months of that childbirth, adoption or placement. For first-year care of a child, adoption, or foster placement, the town may require that FMLA leave be taken on a full-time basis. However, leave may be taken on an intermittent or reduced basis if another arrangement is agreed to by the Town Manager. Leave for serious health conditions, either of a family member or the employee, may be taken intermittently or on a reduced schedule if medically necessary. The preferred minimum time for FMLA leave taken on an intermittent basis is two hours per workday.
- (4) In the event of foreseeable leave, the town may require 30 days' notice for either full-time or intermittent leave. If the employee is unable to provide 30 days' notice, then (s)he must provide such notice as is practicable. If an employee's request for intermittent leave is foreseeable based on planned medical treatment, the town may require the employee to transfer temporarily to an alternate position, with equivalent pay and benefits, that better accommodates recurring periods of leave than the employee's regular position. Employees are required to make a reasonable effort to schedule treatment so as not to disrupt unduly the operation of the Town of Plaistow.
- (5) The town may require employees to first use their paid vacation, personnel or sick leave as a substitute for any part of the twelve-week FMLA leave period. If paid leave is used by an employee, the town will provide only enough unpaid leave to total twelve weeks. The town is not required to provide paid sick leave or medical leave in any situation where the town does not already provide that leave.

- (6) In the case of full-time FMLA leave, upon request of the Town Manager and Selectmen's approval, a temporary employee may be hired for the duration of the leave of absence. This temporary employee will not be extended any fringe benefits offered by the town other than workmen's compensation and disability insurance or other federal/state mandated items.

B. Certification.

- (1) The town may require that an employee provide certification of his/her own serious health condition or that of a family member. If requested, the employee must provide a copy of such certification to the town in a timely manner. The town may periodically require subsequent recertification. Certification is to include the date on which the serious health condition in question began; the probable duration of the condition; a statement that the employee is needed to care for a spouse, parent or child (along with an estimate of the time required), or that the employee is unable to perform his/her functions; and, in case of intermittent leave, the dates and durations of treatments to be given.
- (2) The town may require that a second or third opinion be obtained, at the town's own expense, if there is a question about the certification provided by the employee's health care provider. The second and third opinion may be provided by a health care provider selected by the town.
- (3) A return to work certificate, signed by a health care provider, may be required of those employees on a personal medical leave of absence. Employees returning from extended leaves of absence must notify the town at least 10 working days in advance of their projected return or the end of the leave period, whichever comes first. Employees will be returned to work as soon as the town receives certification from the employee's health care provider of the employee's ability to perform essential functions of the job and as the work schedule permits.

C. Employment and benefits protection.

- (1) An employee who completes a period of leave is to be returned either to the same position (s)he had before or to a position equivalent in pay, benefits, and other terms and conditions of employment.
- (2) Leave is not to result in the loss of any previously accrued seniority or employment benefits, but neither are any benefits required to accrue during the leave. Health benefits continue through an employee's leave. The town may recover health coverage premiums paid for an employee who fails to return from leave, except if the reason is the continuation, reoccurrence, or onset of a serious health condition, or something else beyond the employee's control. This is subject to certification.

D. Exceptions.

- (1) FMLA provides a limited exception from the restoration requirement to those employees who are salaried and in the highest paid 10% of the town's work force within a seventy-five-mile radius of the employee's work site. The town may deny restoration of returning one of these employees if it would substantially impact the daily operations or management of the town. If the key executive utilizing FMLA

leave does so for a compensable illness or injury, then the town must maintain reinstatement rights for said individual as required under New Hampshire's Workmen's Compensation Law.

- (2) A key employee who takes leave is still eligible for continuation of health benefits, even if the employee has been notified that reinstatement will be denied. Under those circumstances, no recovery of premium may be made by the town, if the employee has chosen to take or continue leave after receiving such notice.
 - (3) The town must notify the employee of its intent not to restore the employee at the time when the determination is made. If the leave has begun, the employee must have the option of deciding whether or not to return after receiving the notice. An employee who is not returning is still considered to be on leave for the duration of his/her leave period.
- E. Interpretations. The terms of this policy are intended to comply with the Family and Medical Leave Act of 1993, and any terms used from the FMLA will be defined as in the Act and the United States Department of Labor regulations. To the extent that this policy is ambiguous or contradicts the Act or the regulations, the Act or the regulations shall prevail.

§ 138-37. Workers' compensation.

- A. The Town of Plaistow provides workers' compensation insurance to cover all employees. Any employee who sustains a personal injury or compensable illness arising out of and in the course of employment will receive benefits as prescribed by the workers' compensation system, which include payments to offset lost wages and the cost of medical care and rehabilitation.
- B. Reports of workplace injuries should be made within 24 hours to the employee's supervisor. The supervisor must file a workplace injury report immediately. The town shall pay the employee base pay charged to sick time until the claim is processed. Upon receipt of the workers' compensation payments, the employee may reimburse the town, which will in turn credit the sick time used to cover the work-related disability. Such restoration of days need not be made if the employee does not desire to restore such accrued leave.
- C. The town will pay to an employee absent as a result of an employee-related disability an amount which is provided by New Hampshire statute and administered by the Compensation Fund of New Hampshire.
- D. At any time after a job-related disability, the employee may request that accrued vacation or sick time be used to supplement the payments as noted above. In no case shall the combination of accrued leave benefits and the compensation received from the workers' compensation equal more than 100% of the employee's regular rate of pay.
- E. Part-time employees shall receive compensation in accordance with the schedule that provides a benefit based upon the average of the 12 weeks of employment prior to the incident.

- F. Under Workers' Compensation Law, New Hampshire RSA 281-A:25, an employee is entitled to reinstatement for up to 18 months following a compensable injury. In effect, the injured employee is in a leave of absence status until the time period elapses, he/she returns, procures other employment, or he/she is determined to be permanently unable to return.
- G. An employee who has sustained an injury shall be reinstated by the employer to the employee's former position of employment upon request for such reinstatement, if the position exists and is available and the employee is not disabled from performing the duties of such position, with reasonable accommodations for the employee's limitations. An employee's former position is available even if that position has been filled by a replacement while the injured employee was absent. If the former position has been eliminated, the employee shall be reinstated in any other existing position which is vacant and suitable with reasonable accommodations for the employee's limitations. Reinstatement rights are not available for seasonal or temporary employees, part-time employees, and employees targeted for reduction in force or layoff under provisions of this Personnel Plan.
- H. A certificate by the employee's attending physician stating the physician's approval for the employee's return to work with reasonable accommodations for the employee's limitations may be required by the town prior to the employee's return to work.
- I. During the period a person is disabled, as a result of a job-related injury, all benefits continue and accumulate if applicable. Should the period of disability continue into the next calendar year, and the employee has been unable to take accumulated vacation time, such time may be carried over to the next year. In the event the employee becomes permanently disabled or leaves the employ of the town, the employee will be paid for such vacation at a rate consistent with the pay during the period the vacation would have been normally taken.
- J. The town may provide temporary alternate work opportunities for injured employees. Provisions of this procedure are covered in § 138-39 below.

§ 138-38. Americans with Disabilities Act (ADA).

- A. The ADA requires reasonable accommodation in the application process, in enabling a qualified individual with a disability to perform essential job functions, and in enabling an employee with a disability to enjoy equal benefits and privileges in employment.
- B. The ADA broadly defines a person with a disability as an individual who:
 - (1) Has a physical or mental impairment that limits one or more of his/her major life activities (e.g., walking, speaking, seeing, hearing, etc.);
 - (2) Has a record of such impairment; and
 - (3) Is regarded as having such an impairment.
- C. The ADA prohibits discrimination even if the disabled applicant or employee requires a reasonable accommodation in order to perform the job's essential functions unless doing so would represent an undue hardship to the town. Reasonable accommodations may

include changes in job duties and responsibilities, physical changes in the workplace, changes in work schedules, and other forms of assistance that could represent costs to the town.

- D. The Town Manager or his/her designee is responsible for designating an ADA coordinator. This person shall be responsible for the town's compliance with this law.

§ 138-39. Temporary alternative duty policy statement.

- A. In compliance with New Hampshire state law, the Town of Plaistow will be providing temporary alternative work opportunities to all employees disabled by a work-related injury or illness. As soon as the treating physician has released the employee to lighter duties than the current position requires, subsequent to said injury or illness, the employee will be called upon to return to employment in a temporary alternative position. Employees whose medical condition would permit the use of FMLA may use that leave rather than take the temporary alternative position offered. Such reassignment may include assignment to a different department or position within the town.
- B. Alternative duty procedures. The Town of Plaistow Temporary Alternative Duty (TAD) Program is available for a maximum of 12 weeks. The TAD program is not intended to address those situations wherein the employee has been deemed to be permanently disabled from resuming his/her previous position.
- (1) The injured employee will pick up a physician's statement or certificate and a copy of his/her current job description from the coordinator of the TAD program while reporting the injury. If the nature of the injury is such that emergency care precludes stopping to pick up these forms, the employee shall as soon as possible call the TAD coordinator to request that a certificate and position description be mailed to the treating physician.
 - (2) The employee will have the physician complete the form based on the findings during the initial examination.
 - (3) The employee may return the completed form to the TAD coordinator immediately after seeking medical care.
 - (4) The TAD coordinator will work with the employee, representative and the department head to facilitate a safe return to work program.
 - (5) The TAD coordinator or department head may contact the treating physician if additional information is necessary.
 - (6) After each subsequent office visit, the employee will bring updated information from the treating physician to the TAD coordinator. A note will be sufficient in most cases.
 - (7) Additional modifications will be made to the return to work program as required. The TAD coordinator will review the appropriateness of continuing the program or duty assignment.
 - (8) Steps 4 through 7 may be repeated until such time as the employee is able to return to his/her normal position or has been deemed to be permanently disabled.

ARTICLE V
Disciplinary and Sexual Harassment Procedures

§ 138-40. Disciplinary actions and appeals.

A. Purpose.

- (1) As public employees, actions and behavior reflect directly upon the town. Unprofessional attitudes cannot be tolerated. Any breach of town policies, state and local laws, or departmental policies may result in disciplinary action. The seriousness of an offense will vary with the circumstances prevailing at the time it occurred and the behavior which prompted it and the employee's past record. All factors are considered when determining the appropriate action to take in a particular situation.
- (2) Disciplinary action will normally be imposed in the following order:
 - (a) Verbal warning.
 - (b) Written warning.
 - (c) Suspension without pay.
 - (d) Discharge.
- (3) This sequence of progressive discipline need not be followed if an infraction is sufficiently severe to merit skipping of one or more of the above steps.

B. Procedure.

- (1) Verbal and written warnings will be given by the department head or Town Manager and shall include the nature of the offense, including the date and time of its occurrence, and remedial suggestions. Whenever possible, warnings will be issued within 10 working days of knowledge of the offense.
- (2) Suspension without pay may be imposed by the department head or Town Manager and shall be between one and 10 working days, depending on the severity of the offense. The department head shall notify the Town Manager immediately upon imposition of suspension, or, in the case of department heads, the Town Manager shall notify the Board of Selectmen immediately upon imposition of suspension. Suspension may be imposed within 10 working days of knowledge of offense. The employee may receive a written notice of suspension which includes the date, time, and nature of the offense and remedial suggestions.
- (3) Discharge of an employee may be imposed by the Town Manager. Discharge of an employee may also be imposed by the Town Manager upon the recommendation of the department head. Upon receipt of such recommendation, the Town Manager, with prior notification to the Board of Selectman, shall review the circumstances surrounding the events causing such recommendation, and the employee's personnel file. If the Town Manager agrees with the department head's recommendation, he/she may confirm the discharge in writing to the employee within 10 working days of the date of receipt of the department head's recommendation.

C. Appeal process.

- (1) Appeals of verbal and written warnings and suspensions without pay may be made by the employee to his/her department head, in writing, within five working days of the discipline. The department head shall respond within five working days of receipt of the appeal. If the employee is not satisfied with the department head's decision, he/she may appeal, in writing, to the Town Manager within five working days of receipt of the department head's decision. The Town Manager shall respond within five working days of the receipt of the appeal.
- (2) Appeals of discharge may be made by the employee to the Board of Selectmen, in writing, within five working days of receipt of the notice of discharge. Within five working days of receipt of the appeal, the Board of Selectmen shall schedule a time at which the employee, the department head and the Town Manager shall be provided the opportunity to present their respective interpretation of the events giving rise to the disciplinary action. The Board of Selectmen shall render a decision within 10 working days of hearing the appeal.

§ 138-41. Sexual harassment policy.

A. Discussion.

- (1) The Town of Plaistow is responsible for providing a variety of services to the community in the most efficient and businesslike manner possible. In order to accomplish this goal, town government must provide the most businesslike work environment possible for its employees.
- (2) As in any workplace, the proper conduct of all employees is essential in creating this environment, and great care should be used in all interpersonal relationships. An area of increasing concern is the problem of sexual harassment. On June 19, 1986, the United States Supreme Court ruled unanimously that sexual harassment is a form of discrimination covered by Title VII of the Civil Rights Act of 1964 as amended in 1972 to be applicable to all state and local governments (Vinson vs. Taylor).

B. Sexual harassment. Sexual harassment may be defined as follows:

- (1) Any repeated or deliberate unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:
 - (a) Submission to such conduct is made either implicitly or explicitly a term or condition of employment;
 - (b) Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
 - (c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive workplace.
- (2) Sexual harassment is not limited to requests for sexual favors in return for job benefits. Sexual harassment may take the form of verbal abuse, leering, salacious gestures, inappropriate language, jokes of a sexual nature, or any undesired touching

or patting. Such actions or other action shall be subject to rulings by the appropriate regulatory state or federal agency, prevailing law and/or legal rulings.

- C. Guideline policy. It is the policy of this agency that all employees should be able to enjoy a working environment free from all forms of discrimination, including sexual harassment. Sexual harassment shall be treated as an act of employee misconduct and will not be tolerated under any circumstances. This guideline is intended to cover employees, other town officials and consumers alike; it is not limited to incidents that occur between employees. It purposely covers employees' actions as they relate to the public, whether they are the reporting party, victim, witness, or involved or noninvolved third party.
- D. Procedures. The Town of Plaistow recognizes that any allegations of sexual harassment requires a determination of the facts in each case, and further recognizes that any such investigation should be conducted in a confidential manner until the allegation is properly reviewed. The following procedures should be considered in all circumstances when an individual feels that he/she is the victim of sexual harassment:
- (1) Often mediation is a timely and effective means of satisfying the complaint and resolving the situation. If agreed to by the complainant and the accused, mediation by an internal or external third party may be used as a form of either formal or informal resolution.
 - (2) Information, counseling, and informal resolution.
 - (a) Anyone may seek advice, information, or counseling on matters related to sexual harassment without having to lodge a formal complaint.
 - (b) Persons who feel they are being harassed or who are uncertain if what they are experiencing is sexual harassment are encouraged to talk with an advocate such as the department head, the Town Manager or an EAP representative.
 - (c) At this stage of the informal resolution process, the person seeking information and advice will be counseled as to the options for action available under these guidelines.
 - (d) To the extent possible, information disclosed through this advising process will be held in confidence, unless and until the initiating individual agrees that additional people must be informed in order to facilitate a solution.
 - (e) The aim of informal complaint resolution is not to determine whether there was intent to harass but to ensure that the alleged offending behavior ceases and that the matter is resolved promptly at the appropriate level.
 - (f) No disciplinary action is taken in resolving informal complaints.
 - (3) To pursue an informal complaint speak to a supervisor, department head, Town Manager, Board of Selectmen, or EAP representative.
 - (4) Formal complaint resolution.
 - (a) Any individual who believes that he/she has been sexually harassed shall file a written complaint of the incident to his/her immediate supervisor. An employee

or other individual also has the option of reporting an incident to the Town Manager or to the Board of Selectmen.

- (b) Insofar as possible, the Town Manager shall conduct or cause to be conducted an investigation of the complaint and report the findings within 30 days.
- (c) The Town Manager shall notify the reporting employee of the findings of the investigation and of the corrective action, if any, to be taken with regard to the offending employee.
- (d) Any corrective or disciplinary action taken shall be consistent with current town policy.
- (e) In no case shall an employee reporting an incident of sexual harassment be subject to adverse employment action unless it is determined through the investigation that the allegation was not based on fact and that the employee made the allegation with malicious intent or knowing it was false.
- (f) In all cases, aggrieved employees have the right to report any complaint to the State of New Hampshire Human Rights Commission, 163 Loudon Road, Concord, New Hampshire, 03301, (603) 271-2767.

ARTICLE VI Employee Assistance

§ 138-42. Employee Assistance Program.

- A. Purpose. The Town of Plaistow recognizes that unresolved personnel problems can damage an employee's self-esteem and therefore interfere with expected job performance. The Health Watch Employee Assistance Program (EAP) is designed to enhance the health and emotional well-being of employees by providing counseling and referral services to those employees who may be experiencing family, substance abuse, financial, and other related problems.
- B. Procedures. Full- and part-time employees of the Town of Plaistow can seek assistance from the Health Watch Employee Assistance Program (EAP) through self-referral, supervisor referral, and management consultation. Employees' household members are also eligible to self-refer. Participation is entirely voluntary.
 - (1) Any employee or household member is encouraged to self-refer to the EAP when assistance is needed. A call to the Health Watch EAP office will facilitate a private assessment in a timely manner.
 - (2) A supervisor can make a formal supervisory referral to the EAP after observing and documenting work performance deterioration in an employee with prior review by the Town Manager or designee expected to participate in training sessions taught by the EAP manager to learn how and when to make such a referral.
 - (3) Any supervisor can contact the EAP for consultation obtaining advice/assistance in dealing with a difficult employee or work situation.

- (4) Any supervisor may informally refer any employee to the EAP by suggesting or recommending that an appointment be scheduled.

C. Services provided:

- (1) Promotional activities directed toward education and advertising the EAP, including brochure mailings, posters, payroll stuffers, newsletter articles, and on-site orientations.
- (2) Assessment, short-term counseling, referral and follow-up services, for any employee or household member requesting such services.
- (3) Annual supervisory training sessions geared toward educating all supervisors to observe, document, and refer troubled employees to the EAP when appropriate.
- (4) Utilization reports compiled in a statistical format describing the Employee Assistance Program activity.

D. Confidentiality.

- (1) The use of the Employee Assistance Program is strictly confidential. Any written records or notes pertaining to an employee's use of the EAP are maintained in the EAP office and are not a part of any other employee record (personnel or medical). Release of any information by the EAP counselor can only occur after a written request/release is signed by the employee.
- (2) The Town of Plaistow assures every employee who uses the Employee Assistance Program that his/her job status, compensation level, future promotions, and reputation will not be harmed or jeopardized as a result of that utilization. On the other hand this policy does not replace existing management policy, disciplinary procedures, job standards, or contractual agreements regarding expectations of job performance.

§ 138-43. Alcohol- and drug-free workplace policy.

It is hereby established to be the policy of the Town of Plaistow to establish a drug-free workplace. The Town Manager or his/her designate will coordinate efforts which may include, but not necessarily be limited to, the following:

- A. Informing employees about the dangers of alcohol abuse and drug abuse in the workplace, the town's policy of maintaining a drug-free workplace, and the consequences of not adhering to the town's policy as cited above.
- B. Notifying employees that unlawfully manufacturing, distributing, dispensing, possessing or using a controlled substance in the Town of Plaistow is prohibited. Anyone found in violation of these may subject himself or herself to disciplinary actions, including termination of employment.
- C. Directing any employee found to be in violation of this policy to alcohol and/or drug counseling as offered by the Employee Assistance Program (EAP).
- D. Requiring that each employee who is engaged in either federal or state grants must comply with the town's policy on a drug-free workplace as a condition of employment.

- E. Requiring that each employee convicted of any drug statute for a violation occurring in the workplace must notify the town no later than five days after a conviction.
- F. Instituting appropriate action within 30 days of receiving notice from the employee of a drug conviction. Such action may include requiring the employee to participate in the EAP or other rehabilitation program or other disciplinary action, including termination.
- G. Making appropriate changes or additions that may be necessary to assure the effectiveness of this program and to maintain compliance with federal requirements.

