

TOWN OF HOLDEN

ALCOHOL AND DRUG TESTING POLICY

I. PURPOSE AND SCOPE

The purpose of this Policy is to outline the responsibilities of employees, supervisors and managers with regard to alcohol and drug testing of employees in safety-sensitive positions in accordance with U.S. Department of Transportation regulations, issued under the Omnibus Transportation Employee Testing Act of 1991.

II. APPLICABILITY

This Policy applies to all safety-sensitive employees employed by the TOWN OF HOLDEN (the "Town").

III. DEFINITIONS

Words or phrases used in this Policy are defined in 49 CFR 382.107 or, if not defined in that Section, 49 CFR 40.3, 40.73, 386.2 and 390.5.

Safety-sensitive - For the purposes of this Policy, safety-sensitive shall refer to all employees required by the Town to obtain and retain a Commercial Drivers License ("CDL").

IV. POLICY REGARDING ALCOHOL AND DRUG TESTING

A. It is the policy of the Town to comply fully with the federal regulations mandating pre-employment (drugs, only), random, reasonable suspicion and post-accident alcohol and drug testing in accordance with regulations issued by the U.S. Department of Transportation. This Policy generally explains the requirements of the regulations, and the Town's application of them to the CDL workforce.*

B. The performance of safety-sensitive functions is prohibited by employees having a breath alcohol concentration of 0.02 percent or greater as indicated by an alcohol breath test; by employees using alcohol or within four (4) hours after using alcohol; and by employees in the possession of any medication containing alcohol unless the package seal is unbroken.

C. Use of controlled substances by drivers covered by the Policy is prohibited, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely effect the driver's ability to safely operate a commercial motor vehicle.

* Personnel transactions are under the Appointing Authority and not the CFR.

D. A driver is performing a safety-sensitive function at the following times:

- (a) All time on Town property, public property, or other property waiting to be dispatched or to drive.
- (b) All time inspecting, servicing or conditioning any commercial motor vehicle at any time.
- (c) All driving time.
- (d) All time other than driving time in any commercial motor vehicle.
- (e) All time loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving receipts for shipments loaded or unloaded.
- (f) All time spent performing driver requirements relating to accidents.
- (g) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

V. PROCEDURES

A. TYPES OF TESTS

To the extent practicable, all tests will be conducted during employees' normally scheduled work hours. The following tests are required:

1. Pre-employment (Pre-use). All applicants for employment in positions requiring a CDL are subject to screening for controlled substances, or candidates for transfer or promotion to such a position (pre-use) are subject to screening for improper use of controlled substances.

2. Post-Accident. An accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, an injury treated away from the scene, or a vehicle being required to be towed from the scene. Tests will be conducted after accidents on drivers in Town vehicles in an accident where a citation for a moving traffic violation was given the driver, and for all fatal accidents even if the driver is not cited for a moving traffic violation. Alcohol tests should be conducted within 2 hours, but in no case more than 8 hours after the accident. Employees must refrain from all alcohol use until the test is complete. Post-accident drug tests must be conducted within 32 hours.

3. Reasonable Suspicion. Tests will be conducted when a supervisor or manager observes behavior or appearance that is characteristic of alcohol or drug use. If a driver's behavior or appearance suggests alcohol or drug use, a reasonable suspicion test must be conducted. If a test cannot be administered, the driver must

be removed from performing safety-sensitive duties for at least 24 hours. Testing for alcohol abuse must be based upon suspicion which arises just before, during or just after the time when the employee is performing safety-sensitive duties. Testing for substance abuse may occur at any time upon suspicion. Reasonable suspicion testing may only be conducted after consultation with the Director of Public Works or his/her designee.

4. Random. Tests will be conducted on a random, unannounced basis just before, during or after performance of safety-sensitive functions for alcohol, or at any time for drugs. Each year, the number of random alcohol tests conducted by the Town must equal at least 25% of all the safety-sensitive drivers. Random drug tests conducted by the Town must equal at least 50% of all safety-sensitive drivers.

5. Return to Duty and Follow-up. Tests will be conducted when an individual who has violated the prohibited alcohol or drug standards returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first twelve (12) months after a driver returns to duty. Follow-up testing may be extended for up to sixty (60) months following the return to duty.

B. CONDUCTING TESTS

1. Alcohol. DOT rules require breath testing using evidential breath testing (EBT) devices. Two (2) breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a “negative” test. If the alcohol concentration is 0.02 or greater, a second, confirmation test must be conducted.

2. Drugs.

(a) Drug testing is conducted by analyzing a driver’s urine specimen, and must be conducted through a U.S. Department of Health and Human Services certified facility. Specimen collection procedures and chain of custody requirements will ensure that the specimen’s security, proper identification and integrity are not compromised.

(b) DOT rules require a split specimen procedure. Each urine specimen will be subdivided into two (2) bottles labeled as primary and split. Both bottles will be sent to the laboratory. Only the primary specimen will be opened and used for the urinalysis. The split specimen will remain sealed at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the driver will have 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis.

(c) All urine specimens will be analyzed for the following drugs:

Marijuana (THC metabolite)
Cocaine
Amphetamines
Opiates (including heroin)
Phencyclidine (PCP)

(d) Testing will be conducted using a two-stage process. First, a screening test will be performed. If the test is positive for one or more of the drugs, a confirmation test will be performed for each identified drug. Sophisticated testing requirements ensure that over-the-counter medications or preparations are not reported as positive results.

(e) All drug tests will be reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, the MRO will contact the driver and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen. For all the drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. If the MRO determines that the drug use is legitimate, the test will be reported to the Town as a negative result.

3. Refusal to Submit to an Alcohol or Drug Test and the Consequences.

Refusal to submit (to an alcohol or controlled substances test) means that a driver (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this Policy, (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this Policy, or (3) engages in conduct that clearly obstructs the testing process.

Employees who refuse to submit to an alcohol or drug test will not be allowed to perform safety-sensitive functions. Employees who refuse to submit to a test will be subject to discipline, up to and including discharge.

C. CONSEQUENCES OF ALCOHOL/DRUG MISUSE

1. Safety-sensitive employees who have any alcohol concentration (defined as 0.02 or greater) who are tested just before, during or just after performing safety-sensitive functions will be removed from performing such duties for 24 hours, and placed on administrative leave without pay.

Disciplinary action may be imposed upon an employee whose alcohol test reveals any alcohol concentration of 0.02 and above.

2. Drivers who engage in prohibited alcohol or drug conduct, that is, who test positive for alcohol use of 0.02 or greater or drug use, shall be immediately removed from safety-sensitive functions, and placed on administrative leave without pay.

Drivers who are serving a probationary period under a Collective Bargaining Agreement will be terminated immediately. All other drivers will be subject to discipline, up to and including discharge. Non-probationary drivers who are not terminated will be required to comply with Section 3 below. Non-probationary drivers who fail to complete the requirements of Section 3 will be terminated.

3. Drivers who engage in prohibited alcohol or drug conduct who wish to continue employment with the Town must be evaluated by a substance abuse professional and comply with any treatment recommendations to assist them with an alcohol or drug problem. The payment for any recommended treatment will be strictly at the expense of the employee (or his/her health insurance program, if applicable). Employees referred to a rehabilitation program will be placed on nonoccupational sick leave or medical leave without pay status during the treatment period, whichever is appropriate, subject to the prior approval of the Town Manager for such leave.

4. Only drivers who have been evaluated by a substance abuse professional, who comply with any recommended treatment, who have taken a return to duty test with a result less than 0.02 for alcohol or are drug free, and who are then subject to unannounced follow-up tests, may return to work.

5. Any driver who tests positive for either alcohol or drug use in a Post-accident, Random, or Follow-up test (after returning to safety-sensitive duty), will be placed immediately on administrative leave without pay. If a driver tests positive during a Return-to-duty test, he/she will continue on administrative leave without pay until a subsequent Return-to-duty test provides a negative result, and the employment status of said driver will be subject to review. If a driver is referred by his supervisor or manager for Reasonable Suspicion testing, the driver will be placed immediately on administrative leave without pay upon receipt of the referral and before the test is conducted.

6. If a driver who has been placed on administrative leave without pay tests negative for alcohol or drug use in any of the tests referred to in paragraph 5, above, the driver will be reimbursed for all pay and benefits lost during that administrative leave period.

D. INFORMATION/TRAINING

1. All current and new employees will receive written information about the testing requirements and how and where they may receive assistance for alcohol or drug use. All employees must receive a copy of this Policy and sign the Confirmation of Receipt (*Attachment A*).

2. All supervisory and management personnel in the Department of Public Works must attend at least two (2) hours of training on alcohol and drug use symptoms and indicators used in making determinations for reasonable suspicion testing. Supervisors and managers will be instructed on the detection of abuse problems and the enforcement of the testing policy. Periodic, ongoing training will also occur after implementation of the policy.

3. This Policy will be posted on employee bulletin boards and will be available to all employees.

4. Educational information will be made available periodically which will focus on (a) the potentially dangerous effects of alcohol and drug use and abuse on an individual's health, work and personal life; (b) signs/symptoms of an alcohol or drug problem; (c) methods of intervening when an alcohol or drug problem is suspected; (d) the procedures associated with pre-employment drug screening and "reasonable suspicion" testing; (e) the effects on job performance measured in loss of productivity; and (f) the potential safety hazards presented to the individual employee, other employees and the public.

5. All recruitment advertising for CDL drivers will include the statement "Drug/alcohol screening is a condition of employment" at the bottom of the advertisement/posting with the EEO statement.

6. All final candidates for CDL employment will be given a copy of this Policy, and be given the opportunity to read the policy in its entirety.

E. RECORD KEEPING

1. The Town will keep detailed records of its alcohol and drug misuse prevention program.

2. Driver alcohol and drug testing records are confidential to the extent required by law. Test results and other confidential information may only be released to the employer, the substance abuse professional, the MRO, and any fact finder in a proceeding resulting from, or in connection with, the testing program.

F. PRE-EMPLOYMENT REFERENCES

1. The Town must obtain and review the following information from each employer that the prospective driver worked for, in a safety-sensitive position, during the previous two (2) years: information about a test in which the employee's blood alcohol was 0.02 or greater; information about a positive drug test; and information about any refusal to participate in the alcohol and drug testing program.

2. The prospective employee must provide the former employer with a written release allowing the release of this information or he/she will not be considered for employment.

3. If the previous employer indicates that a positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the applicant may not be appointed unless he/she has already consulted with a substance abuse professional, already received recommended treatment, and subsequently tested negative in a return to duty test for the former employer.

4. The Town must provide the same information to subsequent employers of current Town employees when provided with a written release.

G. QUESTIONS

Questions about this Policy should be referred to the employee's Foreman, the Director of Public Works, and/or the Town Manager.

H. ADMINISTRATION OF POLICY

The Town Manager shall administer this Policy. The Town Manager may delegate the responsibility for such administration to the Director of Public Works.

I. RULES AND REGULATIONS

The Town Manager may adopt rules and regulations, in accordance with federal law, to implement this Policy.

Attachment A

TOWN OF HOLDEN

EMPLOYEE CONFIRMATION OF RECEIPT

I hereby certify that I was given a copy of the Town's Alcohol and Drug Testing Policy, and have been given an opportunity to ask questions of my supervisor about the content of the policy.

Employee's Name

Division

Employee's Signature

Date

ATTACHMENT B

TOWN OF HOLDEN

PRE-EMPLOYMENT CONSENT
TO DRUG SCREENING

I, _____, understand that the medical
(Name)

examination that I am about to receive includes:

☐ A urine test for the presence of drugs

☐ Such other appropriate test to determine the presence of drugs

I hereby give my consent to the Town's certified laboratory or agency to perform these tests. I understand that if I decline to sign this consent, and thereby decline to submit a sample for the test, the test will not be completed. The Town will be notified and my application for employment will not be further processed.

I further consent to the release of the results to the Town.

☐ CONSENT GIVEN ☐ CONSENT REFUSED

Specimen Number: _____ Signed: _____

Date: _____ Witness: _____

Attachment C

CONFIDENTIAL

TOWN OF HOLDEN

EMPLOYEE CONSENT TO
DRUG AND ALCOHOL SCREENING

I, _____, understand that the medical
(Name, Social Security Number)

examination that I am about to receive includes:

- ☐ An evidential breath test for the presence of alcohol
- ☐ A urine test for the presence of drugs and/or alcohol
- ☐ Such other appropriate test to determine the presence of drugs and/or alcohol.

I hereby give my consent to the Town's certified laboratory or agency to perform these tests. I understand that if I decline to submit a sample for the test, I may be subject to disciplinary action, up to and including termination from Town service.

I further consent to the release of the results to the Town.

☐ CONSENT GIVEN ☐ CONSENT REFUSED

Specimen Number: _____ Signed: _____

Date: _____ Witness: _____

COURT APPEARANCE POLICY

1. Should a Town of Holden civilian employee be summonsed or subpoenaed to any judicial forum to give testimony or present evidence for, or on the behalf of the Town of Holden and/or its Police Department, and said employee does appear as required, the employee shall be granted an administrative leave of absence with pay by the Town Manager on the time of said court appearance.
2. Should a Town of Holden civilian employee be summonsed or subpoenaed to any judicial forum to give testimony or present evidence by a 3rd party for matters directly involving the performance of his actual duties of employment for the Town, the Town Manager may grant administrative leave with pay for the time of said court appearance.
3. Should such employee be summonsed or subpoenaed to any judicial forum by the Town of Holden and/or its Police Department in which said employee is accused of a crime or any wrongdoing by the Holden Police Department or any other governmental agency, the employee shall not be eligible for paid leave under this policy.
4. Should a Town of Holden employee be summonsed or subpoenaed to any judicial forum by any governmental agency other than the Town of Holden and/or its Police Department for matters not directly involving his actual duties of employment, said employee shall not be eligible for paid leave under this policy.
5. This policy shall become effective as of January 1, 1994.

TOWN OF HOLDEN
EQUAL EMPLOYMENT OPPORTUNITY POLICY

It is the policy and intent of the Town of Holden to provide equality of opportunity in employment to all Town employees and applicants for employment. Equal opportunity means that the Town will not discriminate against any employee or job applicant because of race, color, sex, gender identity, genetic information, sexual orientation, national origin, ancestry, veteran status, military status, pregnancy, parenthood, age or handicap: and that merit and fitness shall guide the decisions relating to employment with the Town of Holden.

This policy shall be communicated to all Department Managers, and all employees, and all prospective job applicants. This policy is one of the highest personnel priorities of the Town of Holden. All persons shall have equal employment opportunity with the Town of Holden.

TOWN OF HOLDEN

SEAT BELT POLICY

It is the policy of the Town of Holden to require that all employees wear seat belts while operating or riding in municipally owned or leased vehicles, or in other vehicles while on municipal business.

A large percentage of municipal employees operate cars, trucks, and other municipal mobile equipment in the course of their work. Driving places heavy demands upon an employee's alertness, judgment and skill. Driving errors an employee may make can be costly to the municipality, but of greater importance is the potential which exists for serious injuries to the employee and members of the general public.

Municipal vehicles are easily identified as such and constitute a traveling advertisement seen by many citizens. They have what the advertising profession would call "high exposure". This exposure exerts an important influence upon good or bad public relations for the municipality, since safe, courteous driving habits build a positive public image. In addition, naturally, the application of the principles of defensive driving helps avoid accidents.

Issued 10/6/86

Reissued 3/26/90

Reissued 11/20/91

Reissued 1/13/96

TOWN OF HOLDEN

SEXUAL HARASSMENT PREVENTION POLICY AND PROCEDURES¹

POLICY

Introduction. The Town of Holden (the “Town”) depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to providing a working environment that is free of all forms of abuse or harassment. The Town recognizes the right of all individuals to be treated with respect and dignity.

Sexual harassment is a form of behavior or conduct that adversely affects the employment relationship. State and Federal law prohibit such behavior or conduct. Sexual harassment of individuals occurring in the workplace or in other settings in which employees of the Town may find themselves in connection with their employment is unlawful under Federal and State law and will not be tolerated by the Town. The Town also condemns and prohibits sexual or other unlawful harassment of any applicant, client, vendor or visitor.

Because the Town of Holden takes allegations of sexual harassment or abuse seriously, the Town will respond promptly to complaints of sexual harassment or abuse and where it is determined that inappropriate conduct has occurred, the Town will act promptly to address the conduct and impose such corrective action as is necessary, including disciplinary action or termination where appropriate.

It is important to note that while this policy sets forth our goal of promoting a workplace that is free of sexual harassment or abuse, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct that we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

The Rule. It is against the policy of the Town of Holden for any individual, male or female, to harass another individual sexually, that is, by making unwelcome sexual advances, requests for sexual favors, or other uninvited verbal or physical conduct of a sexual nature when:

- submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or a basis for employment decisions; or
- 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.

¹ Harassment on the basis of race, color, religious creed, national origin, gender, ancestry, sexual orientation, as defined by law, or on the basis of age, as defined by law, disability, gender identity or expression, as defined by law, genetic information, veteran status, military service or application for military service, or pregnancy is covered by the Town's *Protected Class Harassment Policy*.

It is also against the policy of the Town of Holden for an individual to engage in any other form of unlawful harassment, inappropriate or unprofessional conduct in the workplace.

Examples of Conduct That May Constitute Sexual Harassment. While it is not possible to list all the circumstances that may constitute sexual harassment, the following are some examples of conduct that may constitute sexual harassment, depending upon the totality of the facts, including the severity of the conduct and its pervasiveness:

- verbal abuse, jokes or language of a sexual nature;
- use of sexually degrading words;
- conversation or gossip with sexual overtones;
- obscene or suggestive gestures or sounds;
- sexually-oriented teasing;
- verbal comments of a sexual nature about an individual's appearance or sexual terms used to describe an individual;
- inquiries into one's sexual experiences or discussion of one's sexual activities;
- comments, jokes or threats directed at a person because of his/her sexual preference;
- unwelcome invitations (for lunch, dinner, drinks, dates, sexual relations);
- demand for sexual favors whether or not accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment;
- physical contact such as touching, hugging, kissing, stroking, fondling, patting, pinching or brushing up against one's body;
- deliberate bumping, cornering, mauling, grabbing;
- assaults of a sexual nature, molestations or coerced sexual acts;
- posting or distributing sexually suggestive objects, pictures, cartoons or other materials;
- sexually-oriented letters or notes;
- sending or posting offensive or discriminatory messages or materials through the use of electronic communications (e.g., internal and external electronic mail, voicemail, facsimile, and Internet sites, including social media sites) that contain overt sexual

language, sexual implications or innuendo, or comments that offensively address someone's sexual orientation;

and sexually suggestive gestures, leering, or staring at parts of a person's body;

condoning sexual harassment or abuse.

4. **Applicability of the Sexual Harassment Policy.** Sexual harassment is not limited to prohibited behavior or conduct by a male employee toward a female employee. Sexual harassment can occur in a variety of circumstances. Here are some things to remember:

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;

The harasser does not have to be the victim's supervisor;

The victim does not have to be of the opposite sex from the harasser; and

The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the victim or unreasonably interferes with the victim's work performance by creating a hostile, humiliating, or sexually offensive work environment.

5. Individual Responsibilities. Each employee of the Town is personally responsible for:

ensuring that his/her conduct does not sexually harass any other individual with whom he/she comes in contact on the job, such as a subordinate, co-worker, customer, visitor, applicant, or outside vendor;

cooperating in any investigation of alleged sexual harassment by providing any information he/she possesses concerning the matter being investigated;

actively participating in efforts to prevent and eliminate sexual harassment or abuse and to maintain a work environment free from such harassment or abuse; and

ensuring that an individual who files a good faith sexual harassment or abuse claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

VIOLATION OF POLICY

Any individual violating this policy will be subject to appropriate discipline, including possible termination of employment.

PROCEDURES FOR COMPLAINTS

Complaint. The Town of Holden has designated a Sexual Harassment Grievance Officer. The current Sexual Harassment Grievance Officer is Kelly Dolan, Assistant Town Manager. She can be reached at Town Hall, located at 1204 Main Street, Holden, MA 01520, and her telephone number is (508) 210-5505. If the employee prefers, they may contact Peter Lukes, Town Manager, who has been designated as the Alternate Sexual Harassment Grievance Officer. He can be reached at Town Hall, located at 1204 Main Street, Holden, MA 01520, and his telephone number is (508) 210-5500.

If any employee of the Town believes he or she has been subjected to sexual harassment or abuse, the individual should initiate a complaint by contacting the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer as soon as possible. The employee should make the complaint promptly following any incident of alleged harassment. The employee should be aware that the longer the period of time between the event giving rise to the complaint and the complaint being made, the more difficult it will be for the Sexual Harassment Grievance Officer or his/her designee to investigate what occurred. The employee will be asked to write out his or her complaint to document the allegation.

If an employee prefers to discuss a possible sexual harassment issue with his or her supervisor, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting sexual harassment or abuse and may instead go directly to the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer.

Investigation. Upon receiving the complaint, the Sexual Harassment Grievance Officer or Alternate Sexual Harassment Grievance Officer, or his/her designee, will promptly undertake an investigation of the matter. The investigation will include interviews with the employee making the complaint, witnesses, and the person accused of sexual harassment. The investigation will be conducted in such a way to maintain confidentiality to the extent practicable under the circumstances.

Decision. When the investigation has been completed, the Town will, to the extent appropriate, inform the person who filed the complaint, as well as the person alleged to have committed the complained-of conduct, of the results of the investigation. If the investigation reveals that sexual harassment or other inappropriate conduct did occur, the Town will act promptly to eliminate the offensive conduct.

Retaliation. Retaliation against an individual for making a good-faith complaint of sexual harassment or abuse, or against any individual for cooperating in an investigation of a sexual harassment or abuse complaint, is against the law. The Town of Holden will not tolerate any such retaliatory conduct. If any employee believes that he or she has been subjected to retaliation for having brought a complaint of harassment or abuse, or for having participated in an investigation of a complaint of harassment or abuse, that employee is encouraged to report the situation as soon as possible to the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer, or the employee's supervisor, or Human Resources.

STATE AND FEDERAL AGENCIES

The Massachusetts Commission Against Discrimination (“MCAD”) is responsible for enforcing the state law prohibiting sexual harassment. The MCAD can be reached at the Worcester Office located at 18 Chestnut Street, Suite 520, Worcester, MA 01608, or at (508) 453-9630. The U.S. Equal Employment Opportunity Commission (“EEOC”) is responsible for enforcing the Federal law prohibiting sexual harassment. The EEOC can be reached at the John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203, (800) 669-4000. A complaint to the MCAD must be filed within 300 days of the alleged conduct. A complaint under the Federal law should be filed within 180 days, but under certain circumstances, a Federal complaint may be filed within 300 days.

WORKPLACE CONDUCT

It is important to note that while this policy sets forth the Town’s goal of promoting a workplace that is free of sexual harassment or abuse, the policy is not designed or intended to limit the Town’s authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment or abuse.

F. POLICY GUIDELINES

The Town Manager may administer guidelines on the administration of this policy.

TOWN OF HOLDEN

FAMILY AND MEDICAL LEAVE POLICY²

I. POLICY.

A. Introduction.

1. The Town of Holden is subject to the Federal Family and Medical Leave Act of 1993 (FMLA) and will grant an eligible employee up to 12 workweeks of unpaid leave, or up to 26 weeks of unpaid FMLA military caregiver leave, in a 12-month period for one or more of the following reasons:

- For the birth of a son or daughter, and to care for the newborn child;
- For the placement of a child for adoption or foster care, and to care for the newly placed child;
- To care for an immediate family member (spouse, child, or parent – but not parent “in-law”) with a *serious health condition*; and
- When the employee is unable to work because of a *serious health condition*.

2. To be eligible for FMLA leave, the employee must have been employed by the Town of Holden for at least twelve (12) months and have worked at least 1,250 hours prior to the start of FMLA leave.

- The 12 months of employment over a seven (7) year period, which are not required to be consecutive in order for the employee to qualify for FMLA leave. In general, only employment within seven years is counted unless the break in service is (1) due to an employee’s fulfillment of military obligations, or (2) governed by a collective bargaining agreement or other written agreement.

3. The employee’s health benefits will be maintained during any period of unpaid leave under the same conditions as if the employee continued to work. The employee

² In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

will be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on the employee's return from leave. If the employee does not return to work following FMLA leave for a reason other than:

a. the continuation, recurrence, or onset of a serious health condition, which would entitle the employee to FMLA leave, or

b. other circumstances beyond the employee's control, the employee will be required to reimburse the Town of Holden for health insurance premiums paid on the employee's behalf during the employee's family medical leave.

4. FMLA Military Leave:

a. An eligible employee can take up to 26 weeks for the FMLA Military Caregiver Leave during a single 12-month period. For the Military Caregiver Leave, the Town will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total 26 weeks of available leave. To qualify as FMLA Military Caregiver Leave, the leave must be for one of the following reasons:

- Birth of a child or placement of a child with the employee for adoption or foster care;
- To care for a spouse, child or parent who has a serious health condition;
- For a serious health condition that make the employee unable to perform the essential functions of his or her job;
- For qualifying exigency arising out of the fact that a spouse, child or parent is a military member on covered active duty or on call to covered active-duty status.
- Qualifying Exigency shall include short-notice deployment, , military events and activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities that arise of active duty, provided that the Town and employee agree, including agreement on the timing and duration of the leave.

b. Leave shall be granted under the FMLA for serious injury or illness incurred by a service member in the line of duty on active duty that may cause the service member to be medically unfit to perform the duties of his or her classification. A serious injury or illness that existed before the service member's active duty and that was aggravated by service in the line of active duty, qualifies for FMLA Military Leave.

c. Covered Service Member – is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is receiving medical treatment, recuperation, or therapy, or is in outpatient status or on the temporary disability retired list for a serious injury or illness.

d. Covered Active Duty – for members of a regular component of the Armed Forces, means duty during deployment of the member with the Armed Forces to a foreign country. For a member of the Reserve components of the Armed Forces, means duty during deployment of the member with the Armed Forces to a foreign country under a federal call or order to active duty in support of a contingency operation, in accordance with 29 CFR 825.102.

5. The employee must provide a 30-day advance notice, when the leave is foreseeable.

6. The employee will be required to furnish medical certification of a serious health condition. The employee must furnish this certification fifteen (15) days after the employee is notified of this requirement or the commencement of the employee's leave may be delayed until the certification is submitted.

7. The Town of Holden will require that the employee substitute accrued paid leave for unpaid FMLA leave.

8. The Town of Holden will not pay the premium on any other benefits (i.e. life insurance, disability insurance, etc.) while the employee is on FMLA leave.

Arrangements for payment can be made if the employee would like to continue these

benefits, and payment must be received by the Town of Holden the first of each month.

9. The employee may be required to present a fitness-for-duty certificate prior to being restored to employment. If not received, the employee's return to work may be delayed until certification is provided.

10. If the employee is deemed by the Town to be a key employee, restoration to employment may be denied following family medical leave on the grounds that such restoration will cause substantial and grievous economic injury to the Town.

11. While the employee is on leave, they may be required to furnish the Town with periodic reports, as appropriate for the particular leave situation, of the employee's status and with intent to return to work. If the circumstances of the employees' leave change, and the employee is able to return to work earlier than the date indicated previously, the employee will notify the Town Manager's Office at least two workdays prior to the date they intend to report to work.

12. The employee may be required to furnish re-certification relating to a serious health condition.

B. INTERACTION WITH LEAVE UNDER FAMILY AND MEDICAL LEAVE ACT (FMLA) AND OTHER STATE AND FEDERAL LEAVE LAWS

The time off provided under this Policy shall run concurrently with time off provided by the Massachusetts Parental Leave Act, M.G.L. c. 149, § 105D, the Massachusetts Domestic Violence Leave Act, M.G.L. c. 149, § 52E, and other leave laws that may allow employees to make concurrent use of leave for any of the permissible uses set forth above. In the event time off under this Policy overlaps with any such overlapping leave laws, the employee shall be required to use any unused Sick Leave concurrently with such other leave.

Certification of Health Care Provider
(Family and Medical Leave Act of 1993)

Employee's serious health condition, form WH-380-E -

<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-380-E.pdf>

Family member's serious health condition, form WH-380-F

<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-380-F.pdf>

TOWN OF HOLDEN

HARASSMENT OF INDIVIDUALS IN PROTECTED CLASSES:³ POLICY AND PROCEDURES

Policy

Introduction. The Town of Holden (the “Town”) depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to maintaining a positive and congenial work environment free from harassment. The Town recognizes the right of all individuals to be treated with respect and dignity.

You are encouraged to see your supervisor with suggestions, questions or problems relating to your job or work environment, or you can contact the Assistant Town Manager. While the Town cannot promise that every problem will be resolved to your satisfaction, the Town values the input of its employees, and employees should feel free to raise issues of concern.

Equal Employment Opportunity. The Town of Holden is an equal employment opportunity employer and does not discriminate in hiring or employment on the basis of race, color, religious creed, national origin, sex, ancestry, sexual orientation, as defined by law, or on the basis of age, as defined by law, disability, gender identity or expression, as defined by law, genetic information, veteran’s status, military service or application for military service, or pregnancy (collectively, “Protected Classes”). If an employee believes they require an accommodation in order to perform the essential functions of their job due to disability, please notify the Assistant Town Manager.

Harassment. Harassment on the basis of a Protected Class (hereafter referred to as “harassment”), is a form of behavior or conduct that adversely affects the employment relationship. State and Federal law prohibit such behavior or conduct. The Town of Holden also condemns and prohibits the unlawful harassment of any applicant, employee, client, vendor, or contractor.

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

The Rule. It is against the policy of the Town of Holden for any individual to harass another individual on the basis of a Protected Class when:

- submission to or rejection of such conduct is made either implicitly or explicitly a term or condition of employment or a basis for employment decisions; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's

³ Sexual harassment is covered by a separate policy.

work performance by creating a hostile, humiliating, or offensive work environment.

It is also against the policy of the Town for an individual to engage in any inappropriate or unprofessional conduct in the workplace.

Examples of Conduct That May Constitute Harassment.

While it is not possible to list all of the circumstances that may constitute unlawful harassment, depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness, the following is a list of situations that could constitute unlawful harassment:

- verbal abuse, comments, jokes, teasing, threats or the use of words that degrade a person because of his/her Protected Class;
- obscene or suggestive gestures or sounds intended to relate to a person's Protected Class;
- posting or distributing letters, notes, objects, pictures, cartoons or other materials that degrade a person because of his/her Protected Class;
- sending or posting offensive or discriminatory messages or materials related to an individual's Protected Class through the use of electronic communications (e.g., internal and external electronic mail, voicemail, facsimile, and Internet sites, including social media sites); and
- condoning harassment on the basis of a person's Protected Class.

Harassment can occur in a variety of circumstances. Here are some things to remember:

- The harasser does not have to be the victim's supervisor; and
- The victim does not have to be the person at whom the unwelcome harassment is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the victim or unreasonably interferes with the victim's work performance by creating a hostile, humiliating, or offensive work environment.

Individual Responsibilities. Each employee of the Town is personally responsible for:

- ensuring that his/her conduct does not harass any other individual with whom he/she comes in contact on the job, such as a subordinate, co-worker, client, vendor, applicant or contractor;

- cooperating in any investigation of alleged harassment by providing any information he/she possesses concerning the matter being investigated;
- actively participating in efforts to prevent and eliminate harassment and to maintain a work environment free from such harassment; and
- ensuring that an employee who files a good-faith harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

VIOLATION OF POLICY

Any individual violating this policy will be subject to appropriate discipline, including possible termination of employment.

PROCEDURES FOR COMPLAINTS

Complaint. The Town of Holden has designated a Protected Class Harassment Grievance Officer. The current Protected Class Harassment Grievance Officer is Kelly Dolan, Assistant Town Manager. She can be reached at Town Hall, located at 1204 Main Street, Holden, MA 01520, and her telephone number is (508) 210-5505. If the employee prefers, they may contact Peter Lukes, Town Manager, who has been designated as the Alternate Sexual Harassment Grievance Officer. He can be reached at Town Hall, located at 1204 Main Street, Holden, MA 01520, and his telephone number is (508) 210-5500.

If any employee believes he or she has been subject to harassment on the basis of his/her Protected Class, the employee should initiate a complaint by contacting the Harassment Grievance Officer or the Alternate Harassment Grievance Officer as soon as possible. The employee should make the complaint promptly following any incident of alleged harassment. The employee should be aware that the longer the period of time between the event giving rise to the complaint and the complaint being made, the more difficult it will be for the Harassment Grievance Officer or his/her designee to investigate what occurred. The employee will be asked to write out his or her complaint to document the allegation.

If an employee prefers to discuss a possible harassment problem with his or her supervisor, the employee may always do so, but employees do not have to go through their supervisor when reporting harassment and may instead go directly to the Harassment Grievance Officer or the Alternate Harassment Grievance Officer.

Investigation. Upon receiving the complaint, the Harassment Grievance Officer or the Alternate Harassment Grievance Officer, or his/her designee, will promptly undertake an investigation of the matter. The investigation will include interviews with the employee making the complaint, with witnesses, and with the person accused of harassment. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

Decision. When the investigation is completed, the Town will to the extent appropriate inform the person who filed the complaint, as well as the person alleged to have committed the complained-of conduct, of the results of the investigation. If the investigation reveals that unlawful harassment or other inappropriate conduct did occur, the Town will act promptly to eliminate the offensive conduct.

Retaliation. Retaliation against an individual for making a good-faith complaint of harassment, or against any individual for cooperating in an investigation of a harassment complaint, is against the law. The Town of Holden will not tolerate any such retaliatory conduct. If any employee believes that he or she has been subjected to retaliation for having brought a complaint of harassment, or for having participated in an investigation of a complaint of harassment, that employee is encouraged to report the situation as soon as possible to the Harassment Grievance Officer or the Alternate Harassment Grievance Officer, or to the employee's supervisor.

STATE AND FEDERAL AGENCIES⁴

The Massachusetts Commission Against Discrimination ("MCAD") is responsible for enforcing the state law prohibiting harassment on the basis of Protected Class. The MCAD can be reached at Worcester Office located at 18 Chestnut Street, Suite 520, Worcester, MA 01608, or at (508) 453-9630. The U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the Federal law prohibiting harassment on the basis of Protected Class. The EEOC can be reached at John F. Kennedy Federal Building, Government Center, Room 475, Boston, MA 02203, (617) 565-3200. A complaint to the MCAD must be filed within 300 days. A complaint under the Federal law should be filed within 180 days, but under certain circumstances, a Federal complaint may be filed within 300 days.

WORKPLACE CONDUCT

It is important to note that while this policy sets forth the Town's goal of promoting a workplace that is free of harassment, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of unlawful harassment.

F. POLICY GUIDELINES

The Town Manager may administer guidelines on the administration of this policy.

⁴ If you are not a resident of Massachusetts or if you are employed in a state other than Massachusetts, please contact the Human Rights agency in your state or your local office of the Equal Employment Opportunity Commission.

TOWN OF HOLDEN FRAUD POLICY

Background

The Town of Holden Fraud Policy is established to facilitate the development of controls that will aid in the detection and prevention of fraud against the Town of Holden (Town). It is the intent of the Town to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and conduct of investigations.

Scope of Policy

This policy applies to any irregularity, or suspected irregularity, involving employees as well as town board and committee members with fiduciary responsibility, customers, consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with the Town (each of the above-referenced natural persons or entities are referred to below as "Covered Persons").

Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship to the Town.

Policy

The Town Manager and the managers of each of the Town's departments are responsible for the detection and prevention of fraud, misappropriations, and other irregularities. Fraud is defined as the intentional, false representation, or concealment of a material fact for the purpose of inducing another to act upon it to his, her, or its injury. Each member of the management team will be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity.

Any fraudulent act or other irregularity that is reported to, or detected or suspected by, a member of the management team or any Town employee must be reported immediately to the Town Manager, who coordinates all investigations with Labor Counsel.

Actions Constituting Fraud

Fraud and other similar irregularities include, but are not limited to:

- Any dishonest or fraudulent act.
- Misappropriation of funds, securities, supplies, or other assets.
- Impropriety in the handling or reporting of money or financial transactions.
- Profiteering as a result of insider knowledge of Town activities.
- Disclosing confidential and proprietary information to outside parties.
- Accepting or seeking anything of material value from contractors, vendors, or persons providing services/materials to Town.

- Destruction, removal, or inappropriate use of Town records, furniture, fixtures, and equipment; and/or
- Any similar or related irregularity.

Other Irregularities

Irregularities concerning a Covered Person's moral, ethical, or behavioral conduct should be reported to, and will be resolved by, the Town Manager.

Covered persons should contact the Town Manager for guidance if there is any question as to whether an action constitutes fraud or another form of irregularity.

Investigation Responsibilities

The Town Manager has the primary responsibility for the investigation of all suspected fraudulent acts (other than those purportedly involving the Town) as defined in the policy. The Town Manager may appoint an Investigative Officer to conduct the investigation. If the investigation substantiates that fraudulent activities have occurred, the Town Manager will issue reports to appropriate designated personnel and to the Board of Selectmen.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with Town Counsel and Labor Counsel, and the Chief of Police, as will final decisions on disposition of the case.

Confidentiality

The Town Manager will treat all information received confidentially. Any employee who suspects dishonest or fraudulent activity will notify the Town Manager immediately, and should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act.

Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the Town from potential liability.

Authorization for Investigating Suspected Fraud

The Town Manager will have:

- Free and unrestricted access to all Town records and premises, whether owned or rented; and
- The authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of their investigation.

Reporting Procedures

Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.

An employee who discovers or suspects fraudulent activity or other irregularity will contact the Town Manager immediately. If the reporting employee suspects that the Town Manager may be involved in the fraudulent acts or other irregularities, the reporting employee will instead immediately notify Holden's Town Counsel. The employee or other complainant may remain anonymous. All inquiries concerning the activity under investigation from the suspected party, his, her, or its attorney or representative, or any other inquirer should be directed to the Town Manager or Town Counsel or Labor Counsel. No information concerning the status of an investigation will be released. The proper response to any inquiries is "I am not at liberty to discuss this matter." Under no circumstances should any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.

The reporting individual should be informed of the following:

- Do not contact the suspected individual in an effort to determine facts or demand restitution.
- Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by Town Counsel, Labor Counsel or the Town Manager.

Whistle-Blower Protection

Neither the Town, nor any persons acting on its behalf, should:

Dismiss or threaten to dismiss;

Discipline or suspend or threaten to discipline or suspend;

Impose any penalty upon; or

Intimidate or coerce,

Any person or entity who reports suspected fraudulent activity or other irregularities under this policy. A violation of this section will result in discipline up to and including dismissal.

Termination

An investigation may result in a recommendation to terminate an individual's or entity's employment or other relationship with the Town. All termination decisions are made by the Town Manager, as the Appointing Authority.

Administration

The Town Manager is responsible for the administration, revision, interpretation, and application of this policy. The policy will be reviewed annually and revised as needed.

TOWN OF HOLDEN

ELECTRONIC AND INFORMATION TECHNOLOGY COMMUNICATIONS POLICY

Policy

It is the policy of the Town of Holden to ensure effective business communications among all individuals within the Town and with others outside of the Town. It is important that all forms of communication, whether verbal, written or transmitted via the Town's electronic communications systems, promote an atmosphere of professionalism, courtesy and respect.

Town Communications

All communications regarding the Town of Holden management, finances, and administration or which may affect the Town or its personnel as a whole, will either originate from or be approved by the Town prior to distribution. No individual employed by the Town is to send or distribute any communication to "All Personnel" or "All Users" without prior authorization from the Town Manager, or his designee. Department Heads are authorized to send or distribute communications regarding their area's business.

Electronic Communication Devices

Electronic communication devices as defined in this policy include, but are not limited to, the Town's telephone system (including voicemail), facsimiles, electronic mail, instant messaging, text messaging, Internet services, Intranet, cell phone services, pagers, copy machines, Town-owned laptops and computers provided for home use and computer software ("electronic communication devices" or collectively referred to as "electronic communication systems"). Electronic communication devices are Town-owned resources and are provided as business communication tools. All information or transmissions that are created, sent, received or stored on the Town's electronic communication systems, including passwords, ("electronic communications") are the sole property of the Town of Holden.

This policy governs all use of Town-owned electronic communication devices, electronic communications and electronic communication systems and also governs electronic communications which occur using electronic communication devices or

electronic communication systems not owned by the Town but that occur in connection with the Town's activities whether within or outside of the Town's geographic area. Electronic messages should be communicated with the same thought and care devoted to written or verbal communications. Individuals should not transmit any form of electronic communication that they would not be comfortable writing in a letter or memorandum. All employees of the Town must adhere to the following, both while either within or outside of the Town's geographic area, and use good judgment when using the Town's electronic communication devices.

1. **Privacy.** There can be no guarantee of privacy for electronic communications. The Town of Holden reserves the right to review and/or monitor all electronic records and communications, at any time, with or without notice, including individual user folders, blogs, and other information stored on the Town's electronic communication systems. In accessing the Internet, users should assume that all connections and sites visited will be monitored and recorded. This examination helps to ensure compliance with Town policies, assists when internal investigations must be conducted and supports the management of the Town's information systems. Use of the Town's electronic communication devices constitutes acceptance of such monitoring.

2. **Security.** The Town's electronic communication systems are to be used only by authorized persons. An electronic mail (e-mail) account, when assigned by the Town, is assigned to each user with a username and password. Any communication sent from that account is the responsibility of the user assigned to the account. Except when specifically authorized by the Town, users shall not (i) disclose their passwords to others; (ii) use someone else's password; (iii) provide their e-mail address to any non-business-related Internet Web site; or (iv) transmit their usernames or passwords through the e-mail. Passwords are designed to provide security of the Town's electronic communication systems from unauthorized users, not to provide privacy to individual users of the Town's electronic communication systems.

3. **Workplace Environment.** The Town of Holden is committed to maintaining a working environment free from all forms of abuse and harassment. Use of the Town's electronic communication systems to send abusive, vulgar, offensive or discriminatory messages is prohibited. Among those items which are considered offensive are any messages which contain profanity, overt sexual language, sexual implications or innuendo or comments that offensively address someone's age, gender, race, sexual orientation, religious beliefs, national origin, or disability.⁵ Employees of the Town are responsible for the content of all text, audio or images that they place or send over the Internet and for ensuring that the Internet is used in an effective, ethical and lawful manner. The transmission or downloading of any sexually explicit materials including abusive, profane or offensive language or images is prohibited. The Town reserves the right to access and monitor all messages and files as it deems necessary and appropriate.

4. **Effective Business Communications.** While e-mail and voicemail may be the quickest and easiest way to communicate, it may not always be the most appropriate or effective way to communicate when managing or conducting the Town's business. Employees of the Town should avoid using e-mail when the message that must be communicated involves extremely important, confidential or sensitive internal Town matters (e.g., discussions regarding an employee's work performance or a candidate's application for employment). Such communications, including dialogues that call for extensive back-and-forth discussion, are best held in person or on the phone.

5. **Confidential Information.** Users of the Town's electronic communication systems should be careful in creating e-mail messages that contain confidential information or providing such information through access to Internet web sites. Even when a message has been deleted or Internet access terminated, the information may still exist in a printed or electronic version, may be recreated

⁵ Sexual harassment and harassment on the basis of race, color, religion, creed, national origin, ancestry, gender, age (40 and above), physical or mental disability, sexual orientation as defined by law, gender identity or expression, genetic information, or military status are covered by the Town's *Sexual Harassment Policy* and *Protected Class Harassment Policy* and should be referenced for those specific requirements.

from a back-up system, or may have been forwarded by the recipient to someone else.

6. **Electronic Discussion Groups or Subscription Services.** Participation by any employee of the Town in an electronic discussion group (chat room), such as a list-serv, newsgroup, or an e-mail subscription service, shall be allowed only if such participation relates to the business of the Town. No participation in such groups for personal reasons is allowed whether during, before, or after normal business hours, except in limited situations and pre-approval has been obtained from the employee's Department Head or the Town Manager, and that no confidential or proprietary information or trade secrets may be shared with other group participants.

7. **Viruses.** Any files downloaded from e-mail or Internet web sites and any computer disks received from outside sources must be scanned with the Town's virus detection software before installation or use. Downloading programs (including self-installing software and upgrades) is prohibited without prior approval. Any viruses detected, tampering or system problems must be reported immediately to the employee's Supervisor or Department Head.

8. **Personal Use.** The use of the Town's electronic communication devices is primarily for business purposes. Personal use of electronic communication devices during business hours is prohibited, except in limited situations when circumstances warrant communications with family members or co-workers as well as the use of electronic communication devices for community activities, educational or professional development purposes. Employees may not abuse this privilege for any significant amount of personal use or activity. Any personal use of the Town's electronic communication devices or electronic communication systems is expected to be on the employee's own time and is not to interfere with the employee's job responsibilities or the business operation of the Town. Any communication sent is the responsibility of the user assigned to the account.

9. **Specific Prohibited Uses.** In addition to requiring compliance with this policy, the Town expressly prohibits certain specific types of misuse of the Town's electronic communication devices or systems. Employees shall not use the Town's or other electronic communication devices or electronic communication systems to:

engage in any illegal activity including, but not limited to, pornography, terrorism, espionage, theft, drugs, gambling or hacking;

send, receive, access, create, print or distribute or otherwise transmit any form of offensive, discriminatory, obscene, pornographic, harassing, defamatory, derogatory, disruptive or otherwise inappropriate communication, at any time, to any person or entity;

send, receive, access, create, print, distribute or otherwise transmit inappropriate language or images that offensively address someone's age, gender, race, sexual orientation, religious beliefs, national origin or disability;

release any communication that violates the Town's confidentiality requirements including divulging confidential or privileged information;

authorize other individuals to send e-mail from their account or use another account to send e-mail communications for their own purposes;

engage in extensive personal communications with co-workers, friends or family members;

send, receive, access, copy, print, distribute or otherwise transmit copyrighted materials, including music, articles and software, movies, or financial information in violation of Town policy or written agreements or without prior authorization;

install personal software on Town-owned computers or install Town-owned software on computers that are not owned by the Town without the prior written approval of the employee's Supervisor or Department Head;

operate a business, solicit outside business ventures, usurp business opportunities, search for outside employment or for solicitation in connection with political, religious or personal causes (except as described in subsection 8 above); and

engage in unethical activities or content, or activities or content that could damage the Town's reputation.

All such instances as specified in this subsection J must be reported immediately to a supervisor or Department Head. It is important to note that while this policy sets forth specific prohibited uses of the Town's electronic communications, electronic

communication devices and electronic communication systems as outlined above, the policy is not designated or intended to limit the Town's authority to discipline or take remedial action for inappropriate use of the Town's electronic communications, electronic communication devices and electronic communication systems which the Town deems unacceptable, regardless of whether it is specified in this policy.

10. **Deletion of E-Mails and Messages.** The Town reserves the right to delete e-mails or messages, or other communications, at any time without notice.

11. **Cell Phones.** While at work, employees are expected to exercise the same discretion in using personal cellular phones as is expected for the use of the Town's phone system. Personal cell phones to place or receive personal calls should be kept to a minimum while on the employee is actively working for the Town. Personal cell phone usage is expected to be on the employee's own time and not interfere with the employee's job responsibilities or be disruptive to the business operation of the Town. Personal cell phones are to be turned off or placed on silent mode during meetings and in public work areas of the Town or Town Department. Use of cell phones to discuss Town-related information must be done with extreme caution so as to eliminate the possibility of a breach of confidentiality or the inadvertent disclosure of confidential information. The Town will not be liable for the loss of personal cellular phones brought into Town buildings. Employees of the Town who are charged with traffic violations resulting from the use of their cell phones while driving a Town-owned vehicle will be solely responsible for all liabilities that result from such actions, and may be subject to disciplinary actions.

Safety studies have shown that drivers who use a cellular telephone while their vehicle is in motion are at a higher risk of being in an auto accident than non-callers. Employees may not use a cellular phone while driving a vehicle without a handsfree device under Massachusetts law. However, should a situation arise in which an individual of the Town needs to use a cell phone while driving, the following safety guidelines shall be followed:

- choose as your first option to pull off to the side of the road and safely stop the vehicle before placing or accepting calls when utilizing your phone in your vehicle;
- do not use your phone while driving to send or review emails or text messages;
- use a hands-free device may be permitted if the traffic is light; read your instruction manual before driving in order to become acquainted with features for use and do not take notes or look up contact information while driving;

use your handsfree device sensibly by assessing the traffic beforehand and place a call while at a red light, stop sign or otherwise stopped;

keep verbal communications to a minimum, suspend such communications during heavy traffic or hazardous weather conditions and let the person with whom you are communicating know you are driving and may be interrupted;

avoid stressful or emotional communications while driving by either pulling over or ending the communication; and

you may use your phone to call for help by dialing 911 in emergency situations.

Violation of Policy

1. Any employee violating this policy, including failure to report violations, will be subject to appropriate discipline, including possible termination of employment.⁶ The Town intends to follow each provision of this policy, but reserves the right to change any provision at any time if circumstances warrant or require, and also reserves the right to terminate or restrict access to any part of the Town's electronic communication systems on an individual or group basis at any time for any reason. A failure to enforce this policy does not constitute a subsequent waiver of any violation of this policy. This policy should be read and interpreted in conjunction with all other Town policies and procedures.

2. It shall not be a violation of this policy where an employee exercises their right of mutual aid and protection under Section 7 of the National Labor Relations Act, including speaking out or discussing their conditions of employment with others.

⁶ Subject to the Town's at-will employment policy and Collective Bargaining Agreements.

Complaints or Problems of Misuse

Should any employee of the Town receive a harassing, offensive, threatening or intimidating communication from inside or outside of the Town, the individual should initiate a complaint by contacting the Grievance Officer as soon as possible. The Town has designated a Grievance Officer. The current Grievance Officer is Kelly Dolan, Assistant Town Manager. She can be reached at Town Hall, located at 1204 Main Street, Holden, MA 01520, and her telephone number is (508) 210-5505. If preferred, an individual may contact the Town Manager, who has been designated as the Alternate Grievance Officer. He can be reached at Town Hall, located at 1204 Main Street, Holden, MA 01520, and his telephone number is (508) 210-5500. Any employee of the Town who is aware of any violation of this policy is required to report such violations to his or her supervisor, Department Head, or the Town Manager.