



TOWN OF WINHALL
PERSONNEL POLICIES



Effective: July 1, 2019

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PERSONNEL POLICY TOWN OF WINHALL, VERMONT

Section 1: TITLE AND AUTHORITY

This policy shall be known as the Town of Winhall Personnel Policy. It has been adopted by the Town of Winhall Select Board pursuant to 24 V.S.A. §§ 1121 and 1122.

This personnel policy does not constitute a contract of employment. Except as otherwise provided for Police Officers under V.S.A Title 24 Chapter 55, employment with the Town of Winhall is *at-will* and not for any definite period or succession of periods of time. The Town or the non-law enforcement employee may terminate employment at any time, with or without notice. The Select Board reserves the right to amend any of the provisions of this personnel policy for any reason and at any time, with or without notice.

This personnel policy will be administered by the Winhall Select Board or the Town Administrator, as its authorized representative.

Section 2: PERSONS COVERED

This personnel policy applies to full-time, part-time, and salaried exempt employees of the Town of Winhall. Except by separate written agreement, elected officers and their statutory assistants, members of Town boards and commissions, volunteers, seasonal employees, and persons who provide the Town with services on a contractual basis are **not** covered by this policy.

For the purposes of this policy, a full-time employee is an employee who works at least forty (40) hours per week on a regular and continuing basis; except for Police Officers. Police Officers shall be considered full-time if that officer works at least eighty (80) hours in a fourteen (14) day pay period on a regular and continuing basis. A part-time employee is an employee who works fewer than 24 hours per week on a regular and continuing basis.

Exempt Employees: Employees that qualify for a white collar exemption under the Fair Labor Standards Act (FLSA) are considered by Federal Law and the Town of Winhall as Exempt. Exempt employees are paid on a salary basis, and not subject to minimum wage and overtime provisions.

Where a conflict exists between this policy and any collective bargaining agreement or individual employment contract, the latter will control.

Section 3: EQUAL EMPLOYMENT OPPORTUNITY

The policy of the Town of Winhall is to provide equal opportunity to all employees and applicants without regard to race, color, religion, ancestry, sex, sexual orientation, gender identity, age, national origin, place of birth, marital status, disability, veteran's status, HIV status, pregnancy, genetic information, crime victim status, or any other category of person protected under state or federal law.

Section 4: PROBATIONARY PERIOD

All new non-law enforcement employees will be required to complete a one-year probationary period. Full-time sworn law enforcement officers will be required to complete a one-year probationary period starting from the date of graduation from the Police Academy for a new hire or one year from the date of hire for an already certified officer. The purpose of this probationary period is to determine whether the employee is suited for the job. During the probationary period, an employee may be terminated at any time at the sole discretion of the Winhall Select Board, and shall have no right to progressive discipline. Notwithstanding any other provision of this policy, an employee terminated during the probationary period will have no right to appeal such termination.

Section 5: CONDUCT OF EMPLOYEES

All employees are considered representatives of the Town and as such are expected to conduct themselves in a courteous, helpful and respectful manner in all their interactions with the public, other employees, and elected and appointed officials.

All employees are expected to faithfully execute the duties and responsibilities of their office to the best of their ability and in compliance with the provisions of this personnel policy.

Section 6: CONFLICTS OF INTEREST

Every employee of the Town shall carry out his or her job in a way that ensures that neither the individual employee nor any other employee of the Town will gain a personal or financial advantage from his or her work for the Town and so that the public trust will be preserved. All decisions made by Town employees shall be made based on the best interest of the community at large rather than the interests of any particular individual or employee.

An employee shall not participate in any official action if the employee has a conflict of interest in the matter under consideration. A "conflict of interest" shall mean a direct or indirect personal or financial interest of the employee, his or her spouse, immediate family member, child(ren), sibling, business associate, employer or employee, in the outcome of a cause, proceeding, application, or any other matter pending before the employee or before the Town.

An employee shall not personally, or through any member of his or her household, business associate, employer or employee, represent, appear for, or negotiate in a private capacity on behalf of any person or organization in a cause, proceeding, application or other matter pending before the Town. An employee shall not use resources not available to the general public, including but not limited to Town staff time, equipment, supplies, or facilities for private gain or personal purposes.

An employee may accept a nominal gift or gratuity in connection with an action associated with their official duties on behalf of the Town with an estimated monetary value not exceeding \$20 once per calendar year, with the understanding that employees may not directly or indirectly ask, demand, exact, solicit, accept or receive any gift, gratuity, act or promise beneficial to that individual, or another, which could influence any action or inaction associated with their official

duties on behalf of the Town, or create the appearance of impropriety in connection with any actions or inactions associated with their official duties on behalf of the Town. Nor shall any employee authorized to procure or to recommend procurement of materials, supplies or services corruptly, directly or indirectly, ask, demand, exact, solicit, seek, accept, receive or agree to receive for the employee or another person, any benefit or benefits from the person providing or soliciting the provision of such materials, supplies or services with the exception of items of a de minimus nature valued \$20 or less (such as vendor booth “freebies”).

Section 7: HOURS OF SERVICE & TIMESHEETS

Note: Under the FLSA, lunch breaks are considered hours worked and must be paid unless the break lasts at least a half hour and the employee is completely uninterrupted from work.

Regular work hours for Police Officers shall be 6:00 AM to 6:00 AM (24 hours), Monday through Sunday, worked in rotating 12-hour shifts, with one hour (paid) allowed for lunch, unless the employee and the Police Chief agree otherwise. The Police Chief may alter the schedule and shifts as needed.

Regular work hours for the Highway Crew shall be 6:00 AM to 2:00 PM, Monday through Friday, with one hour (paid) allowed for lunch, unless the employee and the Winhall Select Board agree otherwise. All Highway Crew employees are required to be available for work on an on-call basis, especially during the winter months, and may be expected to work on holidays, as needed.

The Town Offices shall be open to the public from 7:00 AM to 1:00 PM, Monday through Thursday, unless otherwise determined by the Town Clerk, Town Treasurer, or Listers Department.

Regular work hours may be changed and employees may be expected to work additional hours as circumstances require. All Town employees are required to be available for work in the case of an emergency, weather-related or otherwise.

All Department Supervisors are required to carry a Town-issued cell phone and be available as needed, unless utilizing Combined Time Off. Salaried exempt employees are required to work as many hours as needed to accomplish the tasks required of them; recording of hours on a daily basis is not required since the positions are based on tasks and not on hours worked.

All employees are expected to be in attendance during regular work hours. Employees who will be absent from work are expected to notify their supervisor in advance whenever possible. Employees who are calling in sick are expected to notify their Supervisor as soon as possible.

All employees are required to submit bi-weekly timesheets recording hours worked, time taken off, and tasks completed during that pay period. A signed timesheet (either digitally signed and approved by the Supervisor, or handwritten signature by employee and Supervisor) shall be required in order to receive a paycheck. All employees must complete their own timesheet using electronic means; Supervisors are not permitted to complete timesheets on behalf of their subordinates.

Section 8: ON-CALL DUTY

All full-time employees are expected to make themselves available to the extent reasonably possible during off-duty hours to be contacted for assistance in the event of an emergency or to assist in resolving an issue that requires immediate attention. Department Supervisors and managers will be provided with town-issued cell phones and are expected to be available during off-duty hours to answer calls, respond to emails, and respond should there be a need. Non-exempt (hourly) employees that are called upon to work during their normal off-duty hours are entitled to compensation in accord with the FLSA. Such work shall be compensated at the employee's normal rate of pay, or overtime rate of pay if their weekly hours have exceeded forty (40) at that time. Call-Out pay will be provided to those employees that must travel to a work site or respond in some way while they are otherwise not working (refer to Call-Out section).

Section 9: OUTSIDE EMPLOYMENT

The primary occupation of all full-time and salaried exempt employees shall be with the Town. Employees may not engage in any outside business activities during their normal working hours. Employees are prohibited from undertaking outside employment that interferes with their job performance or constitutes a conflict of interest, as defined in Section 6 of this Policy.

Prior to accepting any outside employment, employees must disclose their intent to do so and obtain prior clearance from the Winhall Select Board or Police Chief that such employment does not constitute a conflict of interest. Police Department employees should refer to the procedures set forth in the Police manual titled "Secondary Employment".

Section 10: POLITICAL ACTIVITY

No employee may use his or her official authority for the purpose of interfering with or affecting the nomination or election of any candidate for public office, or demand or solicit from any individual direct or indirect participation in any political party, political organization or support of any political candidate. Employees are prohibited from using Town facilities, equipment, or resources for political purposes and from pursuing political activities while working.

This personnel policy is not to be construed to prevent employees from becoming or continuing to be members of any political party or organization, from attending political party or organization meetings or events, or from expressing their views on political matters, so long as these views are clearly articulated as being those of the individual and not of the Town, and take place or are expressed during non-working hours. Nor is this personnel policy to be construed as prohibiting, restraining or in any manner limiting an individual's right to vote with complete freedom in any election.

Section 11: NEPOTISM

The Town – in recognition of the potential for a conflict of interest to occur in the workplace where a close relative is responsible for supervising or evaluating the work performance of another close relative – prohibits the hiring or transferring of relatives, when doing so will result in a close relative supervising or evaluating another close relative, or a close relative supervising or

evaluating the immediate supervision of another close relative. A close relative includes a spouse, civil union partner, romantic co-habitant, parent, stepparent, grandparent, child, stepchild, grandchild, sibling, aunt or uncle, niece or nephew, parent-in-law and sibling-in-law. Police Department employees should refer to the procedures set forth in the Police manual titled “Nepotism and Fraternalization”.

Section 12: ALCOHOL AND DRUG USE

The Town intends to maintain a drug-free workplace and workforce. The use of alcohol or illegal drugs and the abuse of prescription drugs are not tolerated in the workplace or at work-related events.

As a Town employee, you are prohibited from working, or presenting yourself for work, while under the influence, or severe after-effects, of illegal drugs, controlled substances, and/or alcohol. This policy is designed to promote our goal of providing a safe, healthy and productive work environment. This policy covers all employees, including drivers and other employees who also are subject to drug testing programs performed in accordance with Federal Department of Transportation (DOT) requirements.

It is the policy of the Town to prohibit the manufacture, distribution, transfer, display, transportation, sale, dispensation, possession, consumption, or use of illegal drugs, controlled substances, and/or alcohol by Town employees at the workplace and/or during working hours. Prohibited behavior includes manufacturing, distributing, transferring, displaying, transporting, selling, dispensing, possessing, consuming, using, or being under the influence of illegal drugs, controlled substances, and/or alcohol during work hours, on work premises, while engaged in work activities away from work premises, or during work-related events.

For the purposes of this policy, the term “illegal drug” includes both: (a) all state and/or federally controlled substances, including look-alike and designer drugs, and drug paraphernalia, and (b) prescription medications that have not been prescribed for current use by an authorized medical practitioner or that are being used contrary to the prescribing medical practitioner’s instructions. Controlled substances include but are not limited to the following substances: marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), barbiturates, benzodiazepine, methadone, methaqualone, and propoxyphene.

Violations of this policy may subject employees to disciplinary action, up to and including termination of employment and referral for prosecution. The Town also may provide information and recommendation to participate in an appropriate drug assistance or rehabilitation program.

Prohibited Conduct:

Except as part of routine work duties performed by Police Department employees, the following actions are prohibited in the workplace, on municipal property, while using municipal equipment, or during any time period in which you are on municipality business:

- Possessing, consuming, or using illegal or controlled substances, as defined by federal, state, and local statutes. (Controlled substances may be taken pursuant to a properly issued prescription, provided the controlled substance is taken as and in the amount prescribed and

so long as the medication does not adversely affect the employee's ability to perform the essential functions of his or her job).

- Distributing, transferring, displaying, transporting, selling, or possessing with the intent to distribute illegal or controlled substances.
- Possessing or using drug paraphernalia except when used for legal substances and in a legally prescribed manner.
- Being under the influence of illegal or controlled substances as demonstrated by actions and/or other evidence.
- Growing and/or manufacturing any illegal drug or controlled substance.
- Possessing or using alcohol.
- Being under the influence of alcohol.

Note: Vermont's laws regarding marijuana and its use for medicinal purposes do not require employers to permit use of marijuana by employees during work hours. Employers are not required to allow employees to report for work under the influence of marijuana. If an employee has a prescription for medical marijuana use, use is prohibited prior to and during work hours.

The limited, responsible consumption of alcohol on or off municipality premises at a Town-sponsored business or social function is permitted, but only if it has been authorized in advance by Winhall Select Board. All attendees at such a function are expected to behave in a professional manner and in accordance with Town policies. The Town reserves the right to search and inspect all areas of the workplace and its premises for the purposes of maintaining a safe and healthy workplace.

Employees with duties that affect public safety must report their use of any medications that may affect the employee's ability to perform the essential functions of his or her work and which have the potential to affect public safety. Such reports will be treated confidentially. The Town may require a medical certification that use of such medication by the employee will not pose a direct threat to public safety, or require a medical opinion as to reasonable accommodations that would allow the employee to continue to perform essential work functions while protecting public safety. Police Department employees should refer to the procedures set forth in the Police manual titled "Prescription Drugs".

Employees may be disciplined, up to and including termination, for violations of this policy.

In addition to this policy, employees who operate commercial motor vehicles (CMVs) for the Town are also subject to the provisions of the Town's Drug and Alcohol Policy for CMV Operators, included as Addendum C to this policy.

Section 13: TOBACCO USE

Vermont law prohibits the use of lighted tobacco products in any workplace and in "the common areas of all enclosed indoor places of public access and publicly owned buildings and offices." 18 V.S.A. § 1742. In recognition of the hazards that tobacco poses to the health of employees, and in accordance with 18 V.S.A. §§ 1421 et seq. and §§ 1741 et seq., the Town hereby prohibits employees' use of tobacco in any form, including electronic cigarettes, in all Town of Winhall-

owned buildings, offices, and enclosed areas, in designated smoke-free areas of Town of Winhall property, and in all Town of Winhall vehicles.

Section 14: PERSONNEL RECORDS

Personnel records will be maintained for each employee of the Town. In accordance with Vermont's Public Records Law, any employee or the employee's designated representative (with proper authorizing documentation) may inspect or copy his or her personnel file at a mutually agreeable time at the Town Administrator's office. The Town reserves the right to have its representative present at the time its files are examined or copied. The Town also reserves the right to charge a per-page fee for copies of records. The Police Chief will maintain all Police Department employee personnel records.

Section 15: USE OF TOWN EQUIPMENT

Except as provided in Section 16, the use of Town equipment or property for personal use is strictly prohibited. Employees should have no expectation of privacy regarding anything stored in or on Town-owned property or Town-owned equipment, including but not limited to desks, telephones, computers, filing cabinets, lockers, and vehicles. Employees should expect that such areas may be searched at any time to retrieve work-related materials or to investigate violations of workplace rules.

Section 16: USE OF TOWN COMPUTER & ELECTRONICS SYSTEM

For purposes of this policy, "computer & electronics system" means all computers and devices and any related hardware, equipment, components, or software, including, but not limited to, host computers, file servers, workstation terminals, laptops, tablets, smartphones, internal or external communication networks, the world wide web (www), the Internet, commercial online services, bulletin board systems, backup systems, and the internal and external e-mail systems accessed via the Town's computer equipment.

All electronic communications regarding Town business should be, to the furthest extent possible, conducted via official Town computer systems. A Town employee should avoid conducting Town business using his or her personal computer, device, e-mail, or accounts.

The Town computer system is to be used by employees for the purpose of conducting Town business. Occasional, brief, and appropriate personal use of the Town computer system is permitted, provided it is consistent with this policy and does not interfere with an employee's job duties and responsibilities.

Employees should have no expectation of privacy or confidentiality regarding anything created, sent or received on the Town computer system. The Town may monitor at any time its computer system without warning or any specific notice to employees including any and all computer transactions, communications and transmissions for any reason including, but not limiting to ensuring compliance with this policy and evaluating the use of its computer system. All files, documents, data, and other electronic messages created, received, or stored on the Town

computer system are open to review and regulation by the Town and may be subject to the provisions of Vermont's Public Records Law.

Employees may not introduce software from any outside source on the Town's computer system without explicit prior authorization from an employee in an Information Technology role within the Town. Employees may be held responsible for any damages caused by using unauthorized software or viruses they introduce into the Town computer system.

Employees who have a confidential password to access the Town's computer system should be aware that this does not mean the computer system is for personal confidential communication, nor does it suggest that the computer system is the property of that person. All passwords are the property of the Town, and must be disclosed to supervisors immediately upon request.

Transmission of electronic messages on the Town computer system shall be treated with the same degree of propriety, professionalism, and confidentiality as written correspondence. The following are examples of uses of the Town computer system which are prohibited:

Communications that in any way may be construed by others as disruptive, offensive, abusive, discriminatory, harassing, or threatening; communications of sexually explicit images or messages; transmission of chain letters or solicitations for personal gain, commercial or investment ventures, religious or political causes, outside organizations, or other non-job-related solicitations during or after work hours; access to Internet resources, including websites and news groups, that are inappropriate in a business setting; any other use that may compromise the integrity of the Town and its business in any way.

Nothing in this policy will be interpreted or applied in a manner that interferes with employee rights to organize, form, join, or assist labor organizations, to bargain collectively through representatives of their choosing to the extent allowed by law, or to engage in other concerted activities for the purpose of addressing the terms and conditions of employment. Police Department employees should refer to the procedures set forth in the Police manual titled "Internet Postings/Social Networking", "Mobile Data Computers", "NCIC", "VTCJIS Security/Compliance", "Attachments in Spillman".

Section 17: PUBLIC RECORDS

Any written or recorded information that is produced or acquired by a Town employee in the course of Town business is a public record, subject to Vermont's Public Records Law and may be covered by the State of Vermont's retention rules and disposition schedules for municipal records. Although the Town discourages the use of personal computers, devices, or accounts to conduct Town business (see Section 16, above), the use of a personal computer, device, or account does not prevent an otherwise public record from being subject to public inspection and copying. In the uncommon event that an employee uses their personal computer, device, or account to conduct Town business, the record created, sent, or received should be forwarded by the employee to the employee's Town computer system, or otherwise captured and retained as a Town record. All employees are required to respond in the manner prescribed by Vermont's Public Records Law regardless of where a Town public record may be stored. All employees must provide any Town

public records stored in their personal computers, devices, or accounts that are responsive to a public records request. Police Department employees should refer to the procedures set forth in the Police manual titled “Public Records/Freedom of Information”.

Section 18: ELIGIBILITY FOR BENEFITS

The Town of Winhall offers the following group programs for the benefit of its eligible employees:

- * Health Insurance
- * Vision Insurance
- * Combined Time Off
- * Worker’s Compensation
- * Wellness Benefit
- * Medical Coverage for Retirees
- * Dental Insurance
- * Life Insurance
- * Short Term and Long Term Disability Insurance
- * Supplemental Insurance Offerings
- * Education Incentive
- * Vermont Municipal Employee Retirement (VMERS)

Employees who are regularly scheduled to work over thirty (30) hours per week (classified as “full-time” employees) are eligible to receive full health and dental insurance benefits/coverage for their entire immediate family at no cost to the employee.

Full-time employees are required to participate in the Vermont Municipal Employee Retirement (VMERS) program; percentages are set by the Legislature and employees and the Town must contribute specific amounts each pay period. Full-time employees may not opt-out of VMERS participation.

Short term disability, long term disability, Worker’s Compensation, and life insurance are offered at no cost to the employee and cover the employee only during their employment with the Town.

Vision insurance and supplemental insurance offerings are offered to all full-time and part-time employees at employee’s expense; paid through payroll deductions.

Part-time employees who are regularly scheduled to work at least eighteen (18) hours per week on a regular basis are eligible to receive the above benefits on a prorated basis, subject to the eligibility requirements of the insurance carrier.

Full-time employees who either obtain while employed by the Town, or who begin employment already having obtained educational degrees, are entitled to an Education Incentive/Benefit. This benefit is paid once annually upon submittal of the benefit reimbursement form to the Town Administrator. Benefits are as follows: \$900 for Masters Degree, \$600 for Bachelors Degree, \$300 for Associates Degree. Payment is made in the form of a check directly to the employee and this benefit is not considered wages for payroll purposes.

The Town of Winhall encourages healthy lifestyles and wellness of its employees through a Wellness Benefit. This benefit is paid once annually upon submittal of the benefit reimbursement form to the Town Administrator. The total benefit amount is \$250 and is paid upon proof of any two of the following: membership to a gym, health center, tennis, swim club, or rock climbing; classes in Yoga, pilates, spin, martial arts, meditation, kick boxing, dance, nutritional classes/counseling/testing, weight management, karate, tae-kwan-do, jujitsu, wrestling, mixed

martial arts, music, arts, dental exam, walking/running/biking a 5K or longer event/race, participation in Spartan/Tough-Mudder/comparable event, mental health counseling, massage therapy, Vermont Police Academy physical fitness testing. Comparable health and wellness activities may be considered in lieu of those stated above on a case-by-case basis. Payment is made in the form of a check directly to the employee and this benefit is not considered wages for payroll purposes.

For employees who retire at age 55 or older and have 20 years of consecutive service working full-time for the Town, the Town will continue to cover 100% of the cost of their single-person health insurance plan premium or 80% of their 2-person health insurance plan premium until the retiree reaches age 65 or is eligible for Medicare coverage (whichever comes first). Likewise, for employees who retire at age 62 or older and have 10 years of consecutive service working full-time for the Town, the Town will continue to cover 100% of the cost of their single-person health insurance plan premium or 80% of their 2-person health insurance plan premium until the retiree reaches age 65 or is eligible for Medicare coverage (whichever comes first).

The Winhall Select Board reserves the right to change insurance carriers, or to add, delete, or amend insurance benefit programs at its sole discretion. The Winhall Select Board also reserves the right to change the amount or percentage of its contribution to the cost of any group insurance program, except that a retired employee's contribution percentage will remain at the rate in effect at the time when he/she retires until he/she reaches age 65 or is eligible for Medicare. Employees will be provided with advance notice of any change in the contribution rate.

Section 19: HOLIDAY LEAVE

Full- and part-time employees may choose to observe the following holidays:

- New Year's Day (January 1)
- Martin Luther King Day (3rd Monday in January)
- Presidents Day (3rd Monday in February)
- Town Meeting Day (1st Tuesday in March)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Bennington Battle Day (August 16)
- Labor Day (1st Monday in September)
- Veterans' Day (November 11)
- Thanksgiving Day (4th Thursday in November)
- Christmas Day (December 25)

Holidays falling on a Saturday will be observed the preceding Friday. Holidays falling on a Sunday will be observed the following Monday.

Except elected officials and their appointees, all employees must utilize accrued Combined Time Off in order to receive compensation in lieu of working on a holiday. Since "holiday pay" is actually CTO, it is paid at the employee's straight-time rate. Employees may choose to observe a holiday without utilizing CTO, but no compensation will be provided for that day off.

In addition to receiving their normal compensation, employees that are scheduled to work on a holiday and choose not to take the day off, regardless of employment classification, shall be allowed to cash out accrued Combined Time Off hours equal to the number of hours worked on a given holiday. Working and taking CTO will equate to double-time or two times the employee's straight-time rate. If the holiday occurs after the employee has already reached 40 hours of straight time (without using CTO) or 80 hours for Police Officers, he/she is eligible for Overtime and would be paid at that rate plus straight time for the holiday, which would equate to two-and-one-half times the employee's straight-time rate.

Hourly, non-exempt employees that are not scheduled to work on a holiday due to shift scheduling shall be allowed to cash out accrued Combined Time Off equal to the number of hours normally worked in a single shift (Police Officers = 12 hours; Highway Department = 8 hours; Transfer Station = 8 hours). Employees are responsible for requesting such on their timesheets.

Section 20: COMBINED TIME OFF

The Vermont statutory term for a policy that combines time off for sickness and other purposes is "combined time off." 21 VSA Sec. 481(2). For the purposes of this Section of the Policy, the following definition shall apply: "eligible employee" means an employee of the Town who: (a) is age 18 or older; (b) works an average of 18 or more hours per week during the year; and (c) is expected to work 20 or more weeks in a 12-month period. Elected officials receiving a flat stipend/salary for their positions are not eligible for Combined Time Off. This definition includes newly-hired employees and those who are still in their probationary period of employment. This definition does not include an individual who: (i) works on a per diem or intermittent basis; (ii) works only when he or she indicates that he or she is available to work; (iii) is under no obligation to work for the Town; and (iv) has no expectation of continuing employment with the Town.

The purpose of Combined Time Off (CTO) is to provide eligible employees the ability to take time off from work with pay. CTO may be used for vacation, holidays, illness, sickness, family matters, maternity/paternity reasons, or to attend to personal business. The Town of Winhall recognizes the importance of work/life balance and believes that its CTO process provides maximum flexibility to its employees.

Each benefit-eligible employee of the Town of Winhall who works 18 hours per week or more on a continuous basis throughout the year will accrue Combined Time Off. CTO payments are considered income when received and will be processed through the existing payroll system. Elected Officials and their appointees (Assistants) shall not be eligible to accrue CTO.

Combined Time Off will begin to accrue on the first day of employment. The rate of time accrued is based upon the employee's classification and length of service (see Accrual Rate Table). CTO will accrue at a fixed rate for each pay period, referred to as the employee's normal accrual rate, regardless of whether the employee takes leave with or without pay, works alternate or fewer hours in a given week, or works overtime.

Employees wishing to utilize Combined Time Off must have sufficient hours available (accrued hours) prior to taking the time off unless permitted elsewhere in this policy. All requests for CTO

must be made in writing and require the approval of the Department Supervisor prior to an employee taking the time off.

Full-time employees that normally work forty (40) hours or more per week, or eighty (80) hours per bi-weekly payperiod for Police Officers, shall be required to utilize accrued CTO to make up the difference anytime their bi-weekly hours total less than eighty (80).

Should a change in status (full-time to part-time) occur that decreases the work hours of an employee, accrued CTO in excess of 75 percent of the maximum accrued hours permitted for the new scheduled hours shall be paid to the employee.

When an employee ends his/her employment with the Town of Winhall, any accrued CTO owed the employee shall be paid to the employee based on then-current hourly wage rates, net of any debt or payment obligation the employee has with the Town of Winhall and net of any payroll taxes due. An employee who resigns or is terminated from employment with the Town during their probationary period will not be entitled to compensation for any accrued CTO.

Department Supervisors are responsible for managing CTO within their respective areas. Unscheduled absences shall be recorded as "CTO Unscheduled" (unless an employee taking family or medical leave or other leave under federal and/or state law elects not to use CTO during the leave period as allowed by said law(s)). Scheduled absences shall be recorded as "CTO Scheduled" (unless an employee taking family or medical leave or other leave under federal and/or state law elects not to use CTO during the leave period as allowed by said law(s)).

Although CTO may be available for an unscheduled absence, the Town reserves the right to impose corrective action or discipline up to and including discharge for unscheduled absences that are not approved by the Department Supervisor or Winhall Select Board or otherwise permitted under federal and/or state law.

An employee who requests and is approved to take scheduled time off from work but does not have sufficient CTO accrued may, with management approval, take the time off without pay, unless such leave is mandated by federal and/or state law – in which case prior management approval is not needed for eligible employees taking unpaid leave under said law(s).

Combined Time Off is paid at the employee's regular hourly rate of pay. Salaried exempt employees may only utilize CTO in four-hour (4-hour) increments. Hourly full-time and part-time employees may only utilize CTO in one-hour (1-hour) increments.

Employees may use CTO for a scheduled or unscheduled absence up to the number of hours for a scheduled shift. Requests for time off, as well as requests to change previously approved time off, must be made in writing and submitted to the Department Supervisor for approval as far in advance as possible. Department Supervisors should attempt to satisfy each request; however, work demands, staff shortages, and competing employee requests may result in a request for time off being denied or recalled.

Emergency situations that require immediate time off, while rare, will most likely prevent an employee from submitting a request for time off with adequate notice. In this rare situation, the Town of Winhall will attempt to satisfy the employee's request. If approval is conditioned on finding coverage, the employee may be asked to participate in obtaining a qualified replacement. However, where family or medical leave or other leave allowed under federal or state law is requested, such leave will be granted to eligible employees in accordance with federal and/or state law and shall not be conditioned upon the employee's participation in finding a qualified replacement.

Employees are encouraged to utilize accrued CTO to take time off work, but there may be times throughout the year when employees are not able to take time off. Employees may, at their sole discretion, cash-out accrued Combined Time Off hours of not more than eight (8) hours per quarter (3-month time periods: January to March, April to June, July to September, and October to December). CTO shall be paid at then-current straight-time wage rates. Relative to this section, employees are responsible for requesting CTO cash-outs on their timesheets and may only do so in the last pay period of March, June, September, and December.

Employees may, at their sole discretion, contribute hours from their CTO bank to another employee's CTO bank in the event that an employee experiences extenuating circumstances whereby he or she must take temporary leave from work without having sufficient CTO accrued to cover the lost time.

The Town of Winhall includes Sick Leave hours within its Combined Time Off policy and hours may be utilized for any reason, as outlined herein. Refer to CTO accrual rate tables for details. Use of this leave does not diminish the rights that an employee may have under the Vermont Parental Family Leave Act, 21 V.S.A. § 470.

An employee may use Combined Time Off for any of the purposes below (including, but not limited to):

- The employee is ill or injured.
- The employee obtains professional diagnostic, preventive, routine, or therapeutic health care.
- The employee cares for a sick or injured parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment, or accompanying the employee's parent, grandparent, spouse, or parent-in-law to an appointment related to his or her long-term care.
- The employee is arranging for social or legal services or obtaining medical care or counseling for the employee or the employee's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, who is a victim of domestic violence, sexual assault, or stalking or who is relocating as the result of domestic violence, sexual assault, or stalking. In this section, "domestic violence," "sexual assault," and "stalking" shall have the same meanings as in 15 V.S.A. § 1151.
- The employee cares for a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, because the school or business where that individual is normally located during the employee's workday is closed for public health or safety reasons.
- The employee wishes to observe a Holiday.
- The employee wishes to go on vacation or take time off from work for mental health.
- The employee has personal family matters requiring attention.
- The employee requires maternity leave, paternity leave, or other matters related to their children.
- The employee is grieving or has suffered a loss (bereavement).

COMBINED TIME OFF (CTO) ACCRUAL RATE TABLES

Full-Time Department Supervisors and Full-Time Salaried Employees

<i>Years of Service</i>	<i>Maximum Hours Allowed In Accrual Bank</i>	<i>Total Annual Accrual Days/Hours</i>	<i>Total Accrual Hours per Bi-Weekly Pay Period</i>
Year 1	304 Hours	38 Days = 304 Hours	11.69
Year 2 through Year 4	424 Hours	42 Days = 336 Hours	12.92
Year 5 through Year 9	564 Hours	47 Days = 376 Hours	14.46
Year 10 through Year 14	624 Hours	52 Days = 416 Hours	16.00
Year 15 through Year 19	684 Hours	57 Days = 456 Hours	17.54
Year 20 and Greater	744 Hours	62 Days = 496 Hours	19.08

Full-Time Hourly Employees (Average 40-Hour Work Week)

<i>Years of Service</i>	<i>Maximum Hours Allowed In Accrual Bank</i>	<i>Total Annual Accrual Days/Hours</i>	<i>Total Accrual Hours per Bi-Weekly Pay Period</i>
Year 1	224 Hours	28 Days = 224 Hours	8.62
Year 2 through Year 4	344 Hours	32 Days = 256 Hours	9.85
Year 5 through Year 9	444 Hours	37 Days = 296 Hours	11.38
Year 10 through Year 14	504 Hours	42 Days = 336 Hours	12.92
Year 15 through Year 19	564 Hours	47 Days = 376 Hours	14.46
Year 20 and Greater	624 Hours	52 Days = 416 Hours	16.00

Part-Time Employees (18-Hour and 24-Hour Work Weeks)

<i>Years of Service</i>	<i>Maximum Hours Allowed In Accrual Bank</i>	<i>Total Annual Accrual Days/Hours</i>	<i>Total Accrual Hours per Bi-Weekly Pay Period</i>
Year 1	40 Hours	5 Days = 40 Hours	1.54
Year 2 through Year 4	72 Hours	6 Days = 48 Hours	1.85
Year 5 through Year 9	96 Hours	8 Days = 64 Hours	2.46
Year 10 through Year 14	120 Hours	10 Days = 80 Hours	3.08
Year 15 through Year 19	144 Hours	12 Days = 96 Hours	3.69
Year 20 and Greater	168 Hours	14 Days = 112 Hours	4.31

Section 21: PARENTAL AND FAMILY LEAVE

Eligible employees may receive leave as described in the Vermont Parental and Family Leave Act (VPFLA). This State law will determine employee eligibility, the qualifying reasons for such leave, and the length of leave.

The Town reserves the right to designate any qualifying leave of absence granted under this policy as leave under FMLA or the VPFLA. A request for leave must be made to the employee's supervisor. Where an employee's leave request is covered by the VPFLA and the FMLA, the Town will adhere to the law that provides the most benefits to the employee. If an employee is entitled to leave under both the VPFLA and FMLA, the leave periods will run concurrently.

For the purposes of determining the twelve-month period in which an employee may be entitled to VPFLA and/or FMLA leave, the Town will use a rolling twelve-month period measured backward from the date an employee uses such leave.

Section 22: SHORT TERM FAMILY LEAVE

An employee is eligible for this type of leave if the employee has been employed by the Town for at least one year for an average of at least 30 hours per week. In accordance with 21 V.S.A. § 472a, eligible employees may be entitled to take unpaid leave not to exceed four hours in any thirty-day period and not to exceed twenty-four hours in any twelve month period for the following purposes:

- To participate in preschool or school activities directly related to the academic educational advancement of the employee's child, stepchild, foster child, or ward who lives with the employee;
- To attend or accompany the employee's child, stepchild, foster child, or ward who lives with the employee or the employee's parent, spouse or parent-in-law to medical or dental appointments;
- To accompany the employee's parent, spouse, or parent-in-law to other appointments for professional services related to their care and well-being; or
- To respond to a medical emergency of the employee's child, stepchild, foster child, or ward who lives with the employee or the employee's parent, spouse, or parent-in-law.

At the option of the employee, accrued Combined Time Off may be used. Before taking leave under this section, an employee shall make a reasonable attempt to schedule appointments outside of regular work hours. An employee shall provide the Town with the earliest possible notice of the intent to take short term family leave, but in no case later than seven days before leave is to be taken, except in the case of an emergency where the required seven day notice could have a significant adverse impact on the family member of the employee.

Section 23: CRIME VICTIM LEAVE

Under Vermont law, employers must provide unpaid leave to crime victims who have been continuously employed for a period of six months for an average of at least 20 hours per week. At the option of the employee, accrued Combined Time Off may be used. In accordance with 21 V.S.A. § 472c, eligible employees who are crime victims may be entitled to take unpaid leave for

the following purpose of attending a deposition or court proceeding related to: a criminal proceeding when the employee has a legal right or obligation to appear at the proceeding; a relief from abuse, neglect, or exploitation hearing when the employee is the plaintiff; hearings concerning an order against stalking or sexual assault, when the employee seeks the order as plaintiff.

A “crime victim” is a person who has:

- obtained a relief from abuse order against a family or household member;
- obtained a court order against stalking or sexual assault;
- obtained a court order against abuse of a vulnerable adult; or
- sustained physical, emotional or financial injury as the direct result of the commission or attempted commission of a crime or act of delinquency and is identified as a crime victim in an affidavit filed by law enforcement official with a prosecuting attorney. This also includes the victim’s child, foster child, parent, spouse, stepchild or ward of the victim who lives with the victim, or a parent of the victim’s spouse, provided that the individual is not identified in the affidavit as the defendant.

Section 24: LEAVE OF ABSENCE WITHOUT PAY

Requests for leaves of absence without pay for any reason other than those covered by federal or state law must be submitted in writing to the employee’s supervisor and must set forth the purpose for which the leave is requested. All leave requests must be for a definite period of time and include a specified date of return.

If a leave of absence without pay is granted for a period that exceeds 30 days, the employee may, to the extent authorized by law or as otherwise authorized in the Town’s sole discretion, continue the employee’s group health plan coverage by paying the required premium in accordance with the payment schedule established by the Town. Combined Time Off will not accrue during an unpaid leave period that exceeds 30 days.

Section 25: MILITARY LEAVE

The Town will comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4303 et seq., and 21 V.S.A. §§ 491 et seq. Employees who take military leave subject to the provisions of these laws will be granted leave without pay. At the option of the employee, any Combined Time Off accrued prior to the commencement of the leave may be used. During military leave, Combined Time Off will continue to accrue at the employee’s normal rate.

Section 26: JURY LEAVE

The Town will not compensate employees for their service as jurors or witnesses when unrelated to their status as a Town employee. In accordance with 21 V.S.A. § 499, employees will otherwise be considered in the service of the Town for purposes of determining seniority, benefits, Combined Time Off, and other rights, privileges, and benefits of employment.

When Town employees are called to serve as a witness in a court proceeding due to their status as an employee of the Town, the Town will compensate the employee for the difference between their regular rate of pay and their compensation as a witness. The Town will pay the difference only when the employees' regular rate of pay exceeds their compensation as a witness.

Section 27: OVERTIME AND COMPENSATORY TIME OFF

Note: The federal Fair Labor Standards Act (FLSA) establishes employment standards for hours worked, overtime, wages, child labor, break time for nursing mothers and prohibits sex-based discrimination. The FLSA does not apply to all municipal employees. Those exempted from the Act include volunteers, elected officials and their assistants, appointed officials in policy-making positions, certain recreational employees, certain trainees, and certain "white collar" positions. Each of the "white collar" exemptions (executive, administrative and professional) has a distinct set of criteria that must be met in order for the position to qualify as exempt from the FLSA. Further information is available on the Department of Labor Website: http://www.dol.gov/whd/overtime/fact_sheets.htm.

It is the policy of the Town of Winhall to compensate employees for hours worked above normally scheduled hours, per the Fair Labor Standards Act (FLSA). Elected Town Officials and their appointees (Assistants) are not eligible for overtime pay.

The Town of Winhall recognizes employees will occasionally be required to work hours in excess of normal scheduled hours. The Town is committed to compensating employees for these additional hours worked according to applicable wage and hour statutes and in a consistent and fair manner.

Non-law enforcement personnel shall be compensated at one and one half times the employee's regular rate of pay for all hours worked in excess of forty (40) hours in any workweek (7 days). Law-enforcement personnel shall be compensated at one and one half times the employee's regular rate of pay for all hours worked in excess of eighty (80) hours in any pay period (14 days).

Overtime pay shall NOT be paid at a rate of one and one half times the employee's regular rate of pay to the extent that an Employee (a) works less than a forty (40) hour workweek, or eighty (80) hour pay period for law enforcement personnel, and (b) elects to take Combined Time Off hours during such period so as to bring the total compensated hours for such period to 40 or 80 hours respectively.

Employees shall not work more than sixteen (16) hours in a calendar day without a break, unless an emergency exists and the Department Manager or designee has authorized the emergency schedule. Employees shall not be eligible for overtime pay while utilizing Combined Time Off. Workweek: A seven consecutive day period (168 hours) beginning on Saturday at 12:01AM and ending, 7 days later, on Friday at 12:00PM (midnight). Bi-Weekly Pay/Work Period: A fourteen consecutive day period beginning on an assigned Saturday at 12:01AM and ending, 14 days later, on Friday at 12:00PM (midnight).

The Town of Winhall expects employees to work overtime when the situation warrants. Examples include, but are not limited to, issues relating to the safety of individuals receiving services, staff shortages, volume, and time critical activities. When possible, the Town will provide employees advance notice of overtime.

Overtime must be authorized in advance by the employee's supervisor unless the supervisor is unavailable and in the reasonable judgment of the employee, overtime is required to ensure the safety of those served or to ensure a seamless provision of critical services. In this situation, the employee should work the overtime and notify the supervisor, Town Administrator, or a member of the Select Board as soon as practical.

Overtime is paid in segments of an hour. The smallest segment of an hour for which an employee will be compensated is one quarter of an hour. Overtime worked less than one quarter of an hour shall be calculated by rounding to zero minutes for seven or less minutes worked and rounded to one quarter of an hour for eight or more minutes worked, and portions of other hours worked will be rounded to one quarter segments in a similar manner.

Salaried full-time employees shall be compensated at their hourly overtime rate for hours worked in excess of their normal hours only when the task or job duty being performed is outside of their normal scope of work, as outlined in their job description or employment contract. Such work must be pre-approved by an authorized party in advance and must not be within the employee's normal scope of work.

Section 28: CALL-OUT

Non-Exempt employees that are called out to work when they are not regularly scheduled to work will be paid an automatic two (2) hours at their overtime rate. This only applies if the employee is required to travel to a work site, office, or other work location that requires travel from their home. Should an employee work more than two (2) hours, they shall be entitled to receive pay for any additional hours worked during the call-out. After the initial two (2) hours at the overtime rate, the rate of pay due the employee shall be the regular hourly rate, unless the employee has already met the required forty (40) regular hours, or eighty (80) regular hours for law enforcement personnel; at which time, the employee shall qualify for overtime pay as outlined in the section above. Management reserves the right to require that the employee work the entire two (2) hours. All employees are required to check with their supervisor for dismissal if their call out is for a period of less than two (2) hours.

Section 29: EMPLOYMENT HARASSMENT AND DISCRIMINATION

The Town is committed in all areas to providing a work environment that is free from unlawful harassment and discrimination. Vermont and federal law prohibit employment discrimination or retaliation based on race, color, religion, sex, gender identity, marital status, national origin, age, pregnancy, genetic information, crime victim or veteran status, any other category of person protected under federal or state law, or against a qualified individual with a disability with respect to all employment practices. Vermont law also prohibits discrimination based on sexual

orientation, ancestry, HIV status, and place of birth. It is also unlawful to retaliate against employees or applicants who have alleged employment discrimination.

Examples of harassment include the following: insulting comments or references based on a person's race, color, religion, sex, gender identity, marital status, national origin, age, pregnancy, genetic information, crime victim or veteran status, disability, sexual orientation, ancestry, HIV status, place of birth; aggressive bullying behaviors; inappropriate physical contact or gestures, physical assaults or contact that substantially interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment; retaliation against an employee for complaining about the behaviors described above or for participating in an investigation of a complaint of harassment.

Petty slights, annoyances, and isolated incidents (unless serious) will not rise to the level of unlawful harassment. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people. The Town will not tolerate unlawful harassment based on a person's race, color, religion, sex, gender identity, marital status, national origin, age, pregnancy, genetic information, crime victim or veteran status, disability, sexual orientation, ancestry, HIV status, place of birth, or membership in a classification protected by law. Likewise, the Town will not tolerate retaliation against an employee for filing a complaint of harassment or for cooperating in an investigation of harassment.

All employees, including supervisors and other management personnel, are expected and required to abide by this policy. Employees who are found to have engaged in harassment may face disciplinary action up to and including termination. Any individual who believes that she or he has been the target of this type of harassment, or who believes she or he has been subjected to retaliation for having brought or supported a complaint of harassment, is encouraged to directly inform the offending person or persons that such conduct is offensive and must stop.

Any employee who wishes to report harassment should file a complaint with the Town Administrator and either his/her Supervisor or a member of the Select Board.

A prompt, thorough, and impartial investigation will be conducted and confidentiality will be protected to the extent possible. If it is determined that unlawful harassment has occurred, the Town will take immediate and appropriate corrective action. No person will be adversely affected in employment with the Town as a result of bringing a complaint of unlawful harassment.

Complaints of harassment or retaliation may also be filed with the following agencies:

Civil Rights Unit - Vermont Attorney General's Office
109 State Street, Montpelier, VT 05609-1001
Tel: (802) 828-3657 (voice) (888) 745-9195 (Toll Free VT) (802) 828-3665 (TTY)
Fax: (802) 828-2154
Email: ago.civilrights@vermont.gov
Online: <http://ago.vermont.gov/about-the-attorney-generals-office/divisions/civil-rights/>

Equal Employment Opportunity Commission
JFK Federal Building, 475 Government Center, Boston, MA 02203
Tel: 1 (800) 669-4000 (voice) 1 (800) 669-6820 (TTY) 1 (844) 234-5122 (ASL Video)
Fax: 617-565-3196
Email: info@eeoc.gov
Online: www.eeoc.gov

These agencies may conduct impartial investigations, facilitate conciliation, and, if they find that there is probable cause or reasonable grounds to believe unlawful harassment occurred, they may take a case to court.

Section 30: SEXUAL HARASSMENT

Sexual harassment in the workplace is illegal under federal and Vermont law and is strictly prohibited. The Town is committed to providing a workplace free from this unlawful conduct. All employees have the right to work without being subjected to insulting, degrading, or exploitative treatment on the basis of their gender. It is against the policies of the Town for any individual, male or female, to sexually harass another individual in the workplace. In accordance with 21 V.S.A. § 495h, the Town has adopted the following sexual harassment policy.

Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to that conduct is made either explicitly or implicitly a term or condition of employment;
- submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or
- the conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Examples of sexual harassment include, but are not limited to, the following when such instances or behavior come within the scope of applicable state and federal law:

- either explicitly or implicitly conditioning any term of employment (e.g., continued employment, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
- touching or grabbing a sexual part of an individual's body;
- touching or grabbing any part of an individual's body after that party has indicated, or it is known, that such physical contact was unwelcome;
- continuing to ask an individual to socialize on or off-duty when that person has indicated he/she is not interested;
- displaying or transmitting sexually suggestive pictures, objects, cartoons or posters if it is known or should be known that the behavior is unwelcome;
- continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;
- referring to or calling a person a sexualized name if it is known or should be known that the person does not welcome such behavior;
- regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of a person if it is known or should be known that the person does not welcome such behavior;
- retaliation of any kind for having filed or supported a complaint of sexual harassment (e.g., ostracizing the person, pressuring the person to drop or not support the complaint, adversely altering that person's duties or work environment, etc.);
- derogatory or provoking remarks about or relating to an employee's sex;
- harassing acts or behavior directed against a person on the basis of his or her sex;
- off-duty conduct which falls within the above definition and affects the work environment.

It is also unlawful to retaliate against employees for filing a complaint of sexual harassment or for cooperating in an investigation of sexual harassment. Any individual who believes that she or he has been the target of sexual harassment, or who believes she or he has been subjected to retaliation for having brought or supported a complaint of harassment, is encouraged to directly inform the offending person or persons that such conduct is offensive and must stop. Employees who are found to have engaged in sexual harassment may face disciplinary action up to and including termination.

Any employee who wishes to report sexual harassment should file a complaint with the Town Administrator and either his/her Supervisor or a member of the Select Board.

A prompt, thorough and impartial investigation will be conducted and confidentiality will be protected to the extent possible. If it is determined that unlawful harassment has occurred, the Town will take immediate and appropriate corrective action. No person will be adversely affected in employment with the Town as a result of bringing a complaint of unlawful harassment.

Complaints of sexual harassment or retaliation may also be filed with the following agencies:

Civil Rights Unit - Vermont Attorney General's Office
109 State Street, Montpelier, VT 05609-1001
Tel: (802) 828-3657 (voice) (888) 745-9195 (Toll Free VT) (802) 828-3665 (TTY)
Fax: (802) 828-2154
Email: ago.civilrights@vermont.gov
Online: <http://ago.vermont.gov/about-the-attorney-generals-office/divisions/civil-rights/>

Equal Employment Opportunity Commission
JFK Federal Building, 475 Government Center, Boston, MA 02203
Tel: 1 (800) 669-4000 (voice) (800) 669-6820 (TTY) (844) 234-5122 (ASL Video)
Fax: 617-565-3196
Email: info@eoc.gov
Online: www.eoc.gov

These agencies may conduct impartial investigations, facilitate conciliation, and, if they find that there is probable cause or reasonable grounds to believe sexual harassment occurred, they may take a case to court.

Section 31: EMPLOYEE DISCIPLINE

The Town of Winhall has adopted a progressive discipline process to identify and address employee and employment-related problems. The Town's progressive discipline process applies to any and all employee conduct that the Town, in its sole discretion, determines must be addressed by discipline.

Under the Town's progressive discipline process, an employee may be subject to disciplinary action, up to and including termination, for violation of the provisions of this personnel policy and/or failure to maintain an acceptable level of performance. The Town may take prior disciplinary action into consideration when disciplining or terminating an employee. Violations of different rules may be treated as repeated violations of the same rule for purposes of progressive discipline.

Most often, employee conduct that warrants discipline results from unacceptable behavior, poor performance, or violation of the Town's policies, practices, or procedures. However, discipline may be issued for conduct that falls outside of those identified areas. The Town also reserves the right to impose discipline for off-duty conduct that adversely impacts the legitimate interests of the Town. The Town reserves the right in its sole discretion to bypass progressive discipline and to take whatever action it deems necessary to address the issue at hand. This means that more or less severe discipline, up to and including termination, may be imposed in a given situation at the Town's sole discretion.

The Town also retains the right to unilaterally eliminate positions or reduce the work hours of a position or positions due to economic conditions, shortage of work, organizational efficiency, changes in departmental functions, and/or reorganization or reclassification of positions resulting in the elimination of a position or for other related reasons.

The Town will normally adhere to the following progressive disciplinary process, but **reserves the right to bypass any or all steps of progressive discipline when it determines, in its sole discretion, that deviation from the process is warranted:** (1) verbal warning; (2) written warning; (3) suspension (with or without pay); and (4) termination.

Employees are prohibited from engaging in conduct listed below and may receive discipline, up to and including termination, for doing so. This list has been established to provide examples of behavior that could warrant a range of disciplinary sanctions. Appropriate levels of discipline may be based on the severity of employee conduct. This list is not exhaustive.

- Engaging in any illegal activity.
- Refusing to do assigned work or failing to carry out the reasonable assignments of a Supervisor or the Select Board.
- Being inattentive to duty, including sleeping on the job.
- Falsifying a time card or other record or giving false information to anyone whose duty is to make such record.
- Being repeatedly or continuously absent or late, being absent without notice or satisfactory reason or leaving one's work assignment without appropriate authorization.
- Conducting oneself in any manner that is offensive, abusive or contrary to reasonable community standards and expectations of public employees.
- Engaging in any form of harassment including sexual harassment.
- Misusing/misappropriating/willfully neglecting Town property/funds/materials/equipment/supplies.
- Unlawfully distributing, selling, possessing, using or being under the influence of alcohol or drugs when on the job or subject to duty.
- Fighting, engaging in horseplay or acting in any manner which endangers the safety of oneself or others. This includes acts of violence as well as threats of violence.
- Stealing or possessing without authority any equipment, tools, materials or other property of the Town or attempting to remove them from the premises without approval or permission from the appropriate authority.
- Marking or defacing walls, fixtures, equipment, tools, materials or other Town property, or willfully damaging or destroying property in any way.
- Failure to search for or disclose public records upon request.
- Willful violation of Town rules or policies.

Section 32: EMPLOYEE TERMINATION PROCESS

The Town of Winhall has adopted an employment termination process. Most often, employee conduct that warrants termination results from unacceptable behavior, poor performance, or violation of the Town's policies, practices, or procedures. However, termination may result from conduct that falls outside of those identified areas. The Town need not utilize this termination process but may take whatever action it deems necessary to address the issue at hand. Police Officers are entitled to the termination process/hearing set forth in V.S.A. Title 24.

The Town also retains the right to unilaterally eliminate a position and thus terminate employment or reduce the work hours for some or all employees due to economic conditions, shortage of work, organizational efficiency, changes in departmental functions, and/or reorganization or reclassification of positions resulting in the elimination of a position or for other related reasons. In such case, this termination process does not apply.

Probationary employees are not subject to the Town's termination process. Notwithstanding any other provision of this policy, an employee terminated during the probationary period will have no right to appeal such termination.

An employee being considered for termination will be provided with written notice. The notice will contain a brief statement of the reasons termination is being considered and the date, time, and place of a meeting with the employee's supervisor and/or or the Select Board.

A supervisor or the Select Board shall have the right to suspend an employee without pay with no advance written notice if circumstances appear warranted, and to promptly provide a hearing thereafter to determine whether the employee should be terminated or subjected to any other disciplinary measures. Prior to such hearing, the employee shall be given written notice of the possible disciplinary action, including termination, and the basis therefore. The employee shall be afforded an opportunity at the hearing to present his or her response. If the employee refuses to attend the hearing, the employee forfeits his or her opportunity to respond to proposed termination or other discipline. Within seven calendar days of the date of the meeting, the supervisor or the Select Board will make a final decision and will provide the employee with a written notice of the decision.

Section 33: SEVERABILITY

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

ADDENDUM A
Personnel Acknowledgement

I, _____, acknowledge that:

A. I received a copy of the Town's personnel policy on _____ and it is my responsibility to familiarize myself with its contents;

B. I understand that it is my responsibility to ask questions if there is anything in the policy that I do not understand;

C. I understand that the language used in this personnel policy is not intended to create, nor should it be construed to create, a contract of employment between myself and the Town;

D. I acknowledge that this policy replaces any and all prior versions and that the Town reserves the right to add, amend, or discontinue any of the provisions of this policy for any reason or none at all, in whole or in part, at any time, with or without notice;

E. I acknowledge that it is my responsibility to comply with all the provisions of the Town's personnel policy.

Employee's Signature

Date

Addendum B

Police Department Employee Compensation

Ranks

It is the function of the Chief of Police to make recommendations to the board of selectman on employee compensation. The Chief reserves the right to adjust an employee's rank upward or downward. The standards for each rank are outlined in the section below. (The Select Board sets salaries for the different ranks annually.) Based on the type of training each officer receives, the Vermont Criminal Justice Training Council classifies police officers as either Level 1, 2 or 3.

Per-Diem Patrolman: Per-Diem Patrolman is an employee that is training for or has been certified by the Vermont Criminal Justice Training Council either Level 1 or 2.

Per-Diem Patrolman 1: Per-Diem Patrolman 1 is a Per-Diem officer that has met all the requirements set forth in Per-Diem Patrolman. In addition, this Per-Diem officer has also completed the EMT (Emergency Medical Technician) certification and kept it current.

Per-Diem Patrolman 2: Per-Diem Patrolman 2 is an officer certified by the Vermont Criminal Justice Training Council as Level 3 working per-diem.

Per-Diem Patrolman 3: Per-Diem Patrolman 3 is a Per-Diem officer that has met all the advanced requirements as set forth in the Per-Diem Patrolman 2. In addition, this Per-Diem officer has also completed the EMT-Advanced or Paramedic certification and kept it current.

Probationary Patrolman: Probationary Patrolman is a Full Time officer that has not yet completed the Department's probationary period.

Patrolman: Patrolman is a Level 3 officer that has met all the requirements set forth in Probationary Patrolman and has spent at least one year in that rank and has been discharged satisfactorily from the FTO Program and probation. As a Patrolman, the officer has completed CPR & AED (Automatic External Defibrillator) certification and is working toward his/her EMT Certification.

Senior Patrolman: Senior Patrolman is a Level 3 officer that has met all the requirements set forth in Patrolman and has spent at least one year in that rank. As a Senior Patrolman, the officer has completed the EMT certification and kept it current.

Patrolman First Class: Patrolman First Class is a Level 3 officer that has met all the requirements set forth in Senior Patrolman and has spent at least one year in that rank. At the time of rank, this officer has a minimum of four full years of law enforcement experience and three of those years have been Full-Time with the Winhall Police & Rescue Department. This officer has to have completed two or more areas of advanced training as approved by the Chief. The officer must also have demonstrated proficiency in and has implemented what they have learned according to policy. These officers must also have kept current and certified in those areas.

Corporal: Corporal is a Level 3 officer that has met all the requirements set forth in Patrolman First Class and has spent at least one year in that rank. This officer has completed three or more areas of advanced training as approved by the Chief. The officer must have demonstrated proficiency in and has implemented what they have learned according to policy. These officers must also have kept current and certified in those areas.

Corporal First Class: Corporal First Class is a Level 3 officer that has met all the requirements set forth in Corporal and has spent at least two years in that rank. This officer has to have a minimum of five full years of Full-Time law enforcement experience and four of those years have been with the Winhall Police & Rescue Department. This officer has completed four or more areas of advanced training as approved by the Chief. The officer must have demonstrated proficiency in and has implemented what they have learned according to policy. These officers must also have kept current and certified in those areas.

Tech Corporal: Tech Corporal is a Level 3 officer that has met all the requirements set forth in Corporal First Class and has spent at least two years in that rank. This officer has also obtained an associate's degree or higher from an accredited College or University. Degrees that are obtained through a Distance Learning Program are also acceptable as long as the school is accredited and has to be approved by the Chief. This officer has to have also completed certification as an instructor by the Vermont Criminal Justice Training Council or Vermont Department of Health in a discipline approved by the Chief, and teaches and instructs that discipline at the Vermont Police Academy or to EMS providers.

NOTE: The Chief reserves the right to limit the number of sergeants and higher-ranking officers based upon the department needs.

Sergeant: Sergeant is a Level 3 officer that has met all the requirements set forth in Corporal First Class and has spent at least two years in that rank. This is the rank used for newly promoted Sergeants. This Sergeant will remain in this rank until he/she meets the requirements of a higher rank.

Sergeant First Class: Sergeant First Class is a Level 3 officer that has met all the requirements set forth in Sergeant. Sergeant First Class has to have held the rank of Sergeant for a minimum of 2 years (after probation). Sergeant First Class is required to hold certification as an FTO (Field Training Officer) at the time of obtaining this rank. This Sergeant is required to have also completed training and certification and kept current and certified and demonstrated proficiency in three or more advanced areas of expertise as approved by the Chief.

Tech Sergeant: Tech Sergeant is a Level 3 officer that has met all the requirements set forth in Sergeant First Class and Tech Corporal and has spent at least one year as a Sergeant First Class and has held the rank of Sergeant for a minimum of 3 years (after probation.) In addition, this Sergeant has also completed training and certification and kept current and certified in four or more advanced areas of expertise as approved by the Chief.

Lieutenant: Lieutenant is a Level 3 officer that has met all the requirements set for in Tech Sergeant. In addition the Lieutenant has spent at least one year as a Tech Sergeant. Lieutenant has also obtained a Bachelor's degree or higher from a College or University. Degrees that are obtained through a Distance Learning Program are also acceptable as long as the school is accredited and approved by the Chief. Lieutenant is required to be a member in good standing of the International Association of Chiefs of Police.

Updated 04/09/19
By Jeffery Whitesell
Chief of Police & Rescue

ADDENDUM C

Winhall Drug and Alcohol Policy for Commercial Motor Vehicle Operators

Introduction

This policy applies to employees and prospective employees of the Town of Winhall who operate commercial motor vehicles (CMVs) or who will operate CMVs if they are hired, transferred, or promoted. Employees and prospective employees are not subject to this policy by virtue of holding a CDL unless their job duties may require them to operate a CMV.

All other municipal employees are subject to the provisions of the municipality's personnel policy regarding alcohol and drug use and testing, if applicable.

The policy was developed based on the requirements articulated by the U.S. Department of Transportation (DOT) in Title 49, of the Code of Federal Regulations (CFR).

This policy does not constitute a contract of employment. Employment with the Town of Winhall is *at will* and not for any definite period or succession of periods of time. The Town or the employee may terminate employment at any time, with or without notice. The Select Board reserves the right to amend any of the provisions of this policy for any reason and at any time, with or without notice.

Section 1: Applicability

This policy applies to all Town of Winhall employees and prospective employees who operate commercial motor vehicles (CMVs) while engaged in any municipal business. This policy supersedes any provisions in the town's personnel policy regarding the consequences of the possession or use of drugs and alcohol as they pertain to CMV operators.

For purposes of this policy, *Commercial Motor Vehicle or CMV* means a motor vehicle or combination of motor vehicles as follows:

- Any single vehicle with a gross vehicle weight rating (GVWR) of 26,001 pounds or more.
- A combination vehicle with a gross combination weight rating (GCWR) of 26,001 or more pounds, provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.
- A vehicle designed to transport 16 or more passengers (including the driver).
- Any size vehicle which requires hazardous material placards or is carrying material listed as a select agent or toxin in 42 CFR part 73.

Individuals operating the above vehicles must have a valid commercial driver's license (CDL). Note that emergency vehicles (e.g. fire apparatus are not CMVs).

Each employee who is subject to this policy is required to sign an acknowledgement that he or she has been provided a copy of this policy. This acknowledgement will be maintained in the town's personnel files as part of the driver qualification file. An acknowledgement form is included as Appendix C.

Given the varied nature of municipal needs, employees who are employed to operate CMVs have the potential to serve in safety-sensitive functions during any part of their job. Therefore, employees are subject to this policy at all times while they are actively working and during periods when they may be called into work (e.g. to respond to weather-related incidents or job functions, respond to emergency situations, etc.). Safety-sensitive functions and other terms are defined in Appendix A: Definitions.

Refer to the personnel policies regarding on-call duty; CMV operators will need to remain substance-free during expected winter events and other anticipated emergency incidents, given the likelihood that they will be called in to work and thus must be in compliance with elements of this Drug & Alcohol Policy.

Section 2: Responsibility for Employee Information

The Town of Winhall has assigned the Town Administrator as the Designated Employer Representative and the individual who can provide employees with information regarding this Drug & Alcohol Policy and answer related questions on the pertinent issues. Employees may also obtain information about applicable Federal regulations from 49 CFR. Sources of information are provided in Appendix B of this policy.

Section 3: Prohibited Conduct

Conduct listed in this section is prohibited.

- Having a verified positive, adulterated, or substituted drug test result.
- Performing safety-sensitive functions after notification of a verified positive, substituted or adulterated drug test result or an EBT alcohol test result indicating a measured alcohol concentration of 0.02% or greater, regardless of when the drug or alcohol was ingested and regardless of whether or not the driver is under the influence of alcohol or using drugs, as defined in federal, state or local law.
- Reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.
- Consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. An on-call employee who has consumed alcohol must acknowledge the use of alcohol at the time that he/she is called to report for duty.
- Consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- Misusing or being impaired by authorized or prescribed use of drugs or over-the counter medications which may affect work performance or pose a danger to the safety of the driver or to others. Drivers are required to inform the employer's designated representative of any therapeutic drug use that has the potential to impact the safe operation of equipment or motor vehicles.
- In cases where prescribed medication labeling suggests that machinery operation or driving may be compromised in any way, the driver shall obtain written authorization from the prescribing physician indicating that the driver is able to safely operate a CMV while using the substance. This must be provided to the municipality prior to operation of said CMV while using the prescribed substance(s).
- Reporting to work or remaining on duty requiring the performance of safety sensitive duties while having an alcohol concentration of 0.02% or greater regardless of when the alcohol was consumed.
- Consuming alcohol for eight (8) hours following involvement in an accident or before submitting-to any required post-accident drug/alcohol testing, whichever occurs first.
- Engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including municipal premises, vehicles, while in uniform or while on municipal business.
- Refusal to submit to alcohol or drug testing, as defined in Section 4, below.

Section 4: "Testing Refusal" Defined

Under federal law, a test refusal is considered as a positive test and has the same consequences. An employee or prospective employee is considered to have refused a test when s/he does any of the following:

- Fails to appear for any test within a reasonable time, as determined by the employer or testing pool administrator, after being directed to do so by the employer;
- Fails to remain at the testing site until the testing process is complete;
- Fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;
- In the case of an observed collection in a drug test, fails to permit the observation or monitoring of the collection of a specimen;
- Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required

medical evaluation, that there was no adequate medical explanation for the failure;

- Fails to provide an adequate amount of saliva or breath for any alcohol test required, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second test that the employer or collector has directed the employee to take;
- Fails to undergo a medical examination or evaluation, as directed by the medical review officer (MRO) as part of the verification process, or as directed by the DER as part of the "shy bladder" procedures;
- Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process);
- If the MRO reports that there is verified adulterated or substituted test result.

Section 5: Testing

All testing and specimen collection prescribed under this policy will be done in accordance with federal requirements. Prescribed testing includes: pre-employment, random, reasonable suspicion, post-accident, return to duty, and follow-up, if applicable.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner, and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

Section 5a: The Drug Testing Process

The drug testing process will screen for drugs including marijuana, cocaine, opiates, amphetamines, and phencyclidine. The use of certain over-the-counter medications and other substances may result in a positive test.

After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection procedure. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a DHHS certified laboratory.

An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

If a drug test produces a result of negative dilute, the Town of Winhall will, in most instances, require the donor to submit to another specimen collection. The re-collection will not be done under direct observation. If a second test is performed and is also negative-dilute, the Town of Winhall will accept that result and will not continue re-collections. The second test is the test of record. Under federal law, an applicant/employee's refusal to submit to a re-collection for a negative-dilute result is a refusal to test.

The test results from the DHHS certified laboratory will be reported to a Medical Review Officer (MRO). The MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a verified positive, substituted, or adulterated test result.

The MRO will:

- Attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result.
- Review any medical history and/or medical records that have been offered by the employee to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be confirmed as a verified positive or a refusal to test and reported to the Winhall Designated Employer Representative (DER). If a legitimate explanation is found, the MRO will report the test result as negative to the DER and no further action will be taken. If the test is invalid without a medical explanation, a retest will be conducted under direct observation.

Any covered employee who questions the results of a required drug test performed under this policy may request that the split specimen be tested; the request should be made to the DER immediately. The employee's request for a split specimen test must be made to the MRO within 72 hours of notice of the original specimen verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts beyond the control of the employee.

The original collected urine specimen is split into 2 specimens (primary specimen and split specimen) prior to testing, expressly for this purpose. The split specimen test must be conducted at a second DHHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split specimen that was provided by the employee at the same time as the primary specimen. The method of collecting, storing, and testing the split specimen will be consistent with the procedures set forth in 49 CFR Part 40, as amended.

Any covered employee, who elects to have a split specimen tested, agrees to fully reimburse the municipality for all costs associated with the testing. Reimbursement may be recouped via payroll deduction, or any other mutually agreeable method(s).

If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct a retest of the employee under direct observation. The retest must occur as quickly after notification as possible.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen tests negative, the split specimen will be discarded. If the primary specimen tests positive, the split specimen will be retained for testing if so requested by the employee through the MRO. If the primary specimen is positive, both the primary and split specimens will be retained in frozen storage for one year.

Section 5b: Observed Collections

Consistent with 49 CFR Part 40, collection under direct observation by a person of the same gender with no advance notice will occur in any of the following circumstances:

- The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the municipality that there was not an adequate medical explanation for the result;
- The MRO reports to the municipality that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- The test is a return-to-duty test or a follow-up test;
- The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- The temperature of the original specimen was out of range; or
- The original specimen appeared to have been tampered with.

Section 5c: The Alcohol Testing Process

Tests for breath alcohol concentration will be conducted by a trained Breath Alcohol Technician (BAT) using a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT).

If the initial test results indicate that alcohol is present, a confirmatory test will be conducted at least fifteen minutes after the completion of the initial test and will be performed by a trained BAT using a NHTSA-approved EBT. The EBT will identify each test with a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the testing, all results, and to attribute the test to the correct employee.

The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee, to maintain the integrity of the alcohol testing procedures and ensure the validity of the test result. An employee who has a confirmed alcohol concentration of 0.04% or higher will be considered to have a positive alcohol test and will be in violation of this policy. The consequences of a positive alcohol test are described in Section 6: Consequences of a Positive Test.

An employee undergoing alcohol testing who does not provide a sufficient amount of breath to permit a valid breath test will be directed to obtain an evaluation within 5 days, from a licensed physician who has expertise in the medical condition raised by the employee's failure to provide a sufficient specimen. The results of this evaluation will be reviewed by the MRO to determine the result of the test.

Even though an employee who has a confirmed alcohol concentration of 0.02% to 0.039% is not considered to have had a positive test, the employee shall still be removed from safety-sensitive duties for twenty-four hours.

Subsequent to the required 24-hour removal, the employee will:

- Meet with the Winhall DER to review the need to avoid alcohol use from any source during or proceeding work hours.
- If the employee has an alcohol test result of 0.02% to $\leq 0.039\%$ two or more times within a six month period, the employee will again meet with a municipal representative to review the need to avoid alcohol use. The employee will be provided with contact and related information for the EAP program (currently Invest EAP). There is no requirement that the employee access those services.

An alcohol concentration of less than 0.02% will be considered a negative test.

The municipality affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not affect the test result will not result in a cancelled test.

Section 5d: Pre-employment Testing

When an individual applies to work for the town in a position that involves the operation of a Commercial Motor Vehicle, or when a municipal employee is under consideration for a position that involves the operation of a CMV, that person will be required to undergo pre-employment urine **drug** testing once a conditional offer of employment has been made. All offers of employment and offers for transfer for covered positions shall be conditional upon the applicant passing the drug test. Pre-employment testing must be completed **prior** to the individual working in the new position.

Pre-employment drug testing will be accomplished by providing advance notice of the test schedule and location to the position applicant. The length of the advance notice period will be kept as short as is reasonably feasible to coordinate and complete the test.

If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. Prior to future consideration for employment performing safety-sensitive duties, the municipality must receive evidence from a substance abuse professional that meets with the requirements 49 CFR part 40 as amended, regarding the absence of drug dependency. A negative pre-employment drug test will also be required.

Any applicant who fails a pre-employment drug test will be provided the results of the test along with the current Invest EAP brochure. This serves to provide the individual with information about substance abuse treatment opportunities.

If a drug test produces a result of negative dilute, the Town of Winhall will, in most instances, require the donor to submit to another specimen collection. The re-collection will not be done under direct observation. If a second test is performed and is also negative-dilute, the Town of Winhall will accept that result and will not continue re-collections. The second test is the test of record. Under federal law, an applicant/employee's refusal to submit to a re-collection for a negative-dilute result is a refusal to test.

When an existing employee is being placed, transferred, or promoted into a position that is covered by this policy and that person submits a drug test with a verified positive result, the employee may be subject to disciplinary action as outlined in the municipal personnel policies. That employee will also be eliminated from consideration for the position which triggered the need for the pre-employment test.

If a pre-employment/pre-transfer test is canceled for any reason, the applicant will be required to take and pass a pre-employment drug test before the individual is placed into a covered CDL position or performs safety-sensitive duties.

Section 5e: Random Testing

All municipal CDL drivers are placed in the VLCT PACIF-sponsored Drug & Alcohol Testing Consortium that is operated by the third party administrator, Occupational Drug Testing, LLC (ODT). These employees are subject to random, unannounced testing. There is no discretion on the part of the employer or supervisor in the selection and notification of the individuals who are to be tested. The selection of employees is made by a scientifically valid method of randomly generating an employee identifier from the pool of covered employees.

The dates for administering unannounced testing are randomly selected each quarter, with a minimum percentage of the pool's drivers selected for drug testing, alcohol testing, or both as required by Federal regulations.

Random drug tests can be conducted at any time during an employee's shift. Random alcohol tests can be performed just before, during, or just after the performance of a safety-sensitive duty. Employees are required to proceed immediately to the collection site or make themselves immediately available to collectors when they notified that they have been selected for testing.

Section 5f: Reasonable Suspicion Testing

All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when there is a reasonable suspicion to believe that drug or alcohol use is occurring, has recently occurred, or that the person is under the influence of drugs or alcohol. "Reasonable suspicion" shall mean that there is objective evidence, based upon specific, contemporaneous, describable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.

Reasonable suspicion drug test referrals will only be made by a supervisor or other designated individual with employee monitoring and assignment responsibilities who has received "reasonable suspicion training" in accordance with FMCSA regulations. The training ensures that supervisors or other designated employees with

similar responsibilities have the skills and knowledge to objectively detect the signs and symptoms of drug and alcohol use in employees covered by this policy. The Town of Winhall may elect to utilize a Winhall Police Officer trained in drug recognition for this referral.

A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. A reasonable suspicion drug test can be performed any time the covered employee is on duty. The Town of Winhall shall be responsible for transporting the employee who will be tested to a suitable testing site identified by ODT. Transport shall include travel to and from the location and to the individual's residence, as they should not be permitted to work when they may be under the influence of a drug or alcohol.

Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. An employee who refuses an instruction to submit to a reasonable suspicion drug/alcohol test shall not be permitted to finish his or her shift and will be subject to other employment consequences. Failure to submit to a reasonable suspicion test is prohibited conduct (test refusal), the consequences of which are outlined in Section 6: Consequences of a Positive Test.

A written record of the observations that led to a reasonable suspicion drug/alcohol test shall be prepared and signed by the supervisory individual making the observation. This record shall be prepared prior to the release of the test results. This written record shall be submitted to the Town Administrator (as the DER) for personnel files and driver qualification files.

Section 5g: Post Accident Testing

All covered employees will be required to undergo post-accident urine and breath testing if they are involved in an accident with a CMV that meets the criteria outlined in the following chart:

If the accident involved any of the following:	Qualifying event: Was a citation issued to the CMV driver?	Must test be performed by employer?
Human fatality	YES	YES
Human fatality	NO	YES
Bodily injury with immediate medical treatment away from the scene.	YES	YES
Bodily injury with immediate medical treatment away from the scene.	NO	NO
Disabling damage to any motor vehicle requiring tow away.	YES	YES
Disabling damage to any motor vehicle requiring tow away.	NO	NO

If an alcohol test required by this section is not administered within two hours following the accident, the municipality will document and maintain a record stating the reason(s) why the test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the municipality will cease attempts to administer an alcohol test and will document the conditions that led to the time delay and failure to test.

If a drug test required by this section is not administered within 32 hours following the accident, the municipality will cease attempts to administer a controlled substances test and will document and maintain a record stating the reasons the test was not given within the required timeframe.

Section 6: Consequences of a Positive Test

The medical review officer will report positive test results to the DER only after the verifying the test results as outlined in 49 CFR, Part 40 as amended. When the DER is notified of this positive test result, the employee will be immediately suspended from operating CMVs and other safety-sensitive duties for the municipality and will be referred to a Substance Abuse Professional (SAP) for substance abuse assessment and/or treatment.

On the day that the positive test results are received, the employee will be suspended from all duties with pay. Subsequent to that, the employee may be suspended without pay. The employee's length of suspension will run the period of time in which it takes the individual to satisfactorily complete the treatment (as confirmed by the treating SAP), and last for up to 3 months from the date the positive test result was received. After that period, if the employee has not successfully completed treatment, the employee may be terminated. The employee will be responsible for the costs of treatment, as well as return-to-duty and follow-up testing, as applicable.

Any employee who has an initial positive test and has the split sample tested and obtains a negative result will immediately be permitted to return to their normal job duties. An employee who has a second positive test after completing return-to-duty testing may be terminated.

An employee who provides written documentation from an SAP that substance abuse treatment has been satisfactorily completed within the 3-month suspension period must fulfill all return-to-duty testing requirements in Section 7: Return to Duty Testing prior to performing any safety-sensitive duties. Follow-up testing will also be required as directed by the SAP.

Section 7: Return to Duty Testing

Covered employees having a positive test will not be permitted to return to duty (to safety-sensitive functions) until after a substance abuse professional has determined that the employee has successfully complied with prescribed education and/or treatment. The SAP will authorize the return to duty testing only when the employee is known to be drug and alcohol-free and there is no risk to public safety. The SAP will provide written documentation to the DER that the treatment has been completed and that the employee may undergo return to duty testing. The employee will then be allowed to take a return-to-duty test, as directed by the treating SAP.

The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before they may return to duty. For an initial positive drug test, a return-to-duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test, a return-to-duty alcohol test is required and a drug test is allowed. Return to duty testing MUST be performed under direct observation.

Section 8: Follow-Up Testing

After satisfactory completion of return-to-duty testing, the driver is required to submit to at least 6 follow up tests during the first 12 months after resuming safety-sensitive duties. Follow-up testing may be required for up to 60 months unless the substance abuse professional determines that testing is no longer warranted. The number and frequency of follow-up tests will follow the written guidance provided by the treating SAP. All follow-up tests are unannounced and may include testing for drugs and/or alcohol.

Follow-up alcohol testing will be conducted only when the driver is performing or just before performing safety sensitive functions, or just after the driver has ceased performing safety-sensitive functions. Follow-up testing MUST be performed under direct observation.

Follow-up testing is separate from and in addition to random, post-accident, reasonable suspicion, and return-to-duty testing.

Section 9: Employee Information

Employees are encouraged to seek information regarding the effects of alcohol and controlled substances on their health, employment, and personal life. Such information is available at:

<http://www.samhsa.gov/>;

<http://www.fmcsa.dot.gov/rules-regulations/topics/drug/drug.htm>

<http://www.investeap.org/>

<http://www.dot.gov/odapc/employee-handbook-english>

APPENDIX A: Definitions

Accident means an occurrence associated with the operation of a CMV, if as a result:

- An individual dies, or
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident, or,
- One or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle. For purposes of this definition, **disabling damage** means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include:
 - damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, or
 - tire disablement without other damage even if no spare tire is available, or
 - damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Adulterated specimen is a specimen that has been altered, as evidenced by test results showing either a substance that is not normally found in that type of specimen or showing an abnormal concentration of a substance that is normally found in that specimen.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device (EBT).

Commercial Motor Vehicle means a motor vehicle or combination of motor vehicles used in commerce, to transport passengers, or property if the motor vehicle:

- Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
- Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Covered Employee means an employee who performs a safety-sensitive function including an applicant or transferee who will be hired to perform a safety-sensitive function. Employees who operate CMVs are considered to be performing safety-sensitive functions.

Designated Employer Representative (DER) means the individual who can provide employees with information regarding this Drug & Alcohol Policy and answer related questions on the pertinent issues. The DER is responsible for random testing, complying with requirements of this policy, and maintaining employee records.

Medical Review Officer (MRO) means a licensed physician (medical doctor or doctor of osteopathy) who is responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history and any other relevant bio-medical information.

Negative test result for a drug test means a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02% BAC is a negative test result.

Negative Dilute is a drug test specimen showing a creatinine level of greater than 5mg/dl and less than 20 mg/dl.

Non-negative test result is a test result found to be adulterated, substituted, invalid, or positive for a drug or drug metabolites. Non-negative results are considered a positive test or a refusal to test if the MRO cannot determine a legitimate medical explanation for the result or the refusal.

Observed Collection means the donor will provide his or her sample under the direct observation of either a collector or another individual of the same gender. The donor must raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that he/she does not have a prosthetic device. After the observer has determined that the donor does not have a prosthetic device, the donor may return his/her clothing to its proper position for observed urination.

Positive test result for a drug test means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, Section 40.87 as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04% BAC or greater. Any positive test result reported to the DER by the medical review officer is verified by the MRO prior to reporting.

Primary specimen. In drug testing, the primary specimen is the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

Prohibited drug means marijuana, cocaine, opiates, amphetamines, phencyclidine, or MDMA (ecstasy) at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Safety-sensitive function includes the timeframe that begins when a driver starts work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
- 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 or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Shy Bladder refers to any time a safety-sensitive employee is unable to provide a 45ml. sample of urine in a single void within a three hour time period.

Split specimen. In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

Substance Abuse Professional (SAP) means a licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Verified negative test means a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established in DOT Rule 49 CFR Part 40 Section 40.87 as revised.

Validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

APPENDIX B: Contacts & Information

OCCUPATIONAL DRUG TESTING, LLC

Manchester, NH
800-211-4469

VLCT/PACIF

Risk Management Services
89 Main St. Montpelier, Vermont 05602
802-229-9111

INVEST EAP

108 Cherry Street, Suite 203
Burlington, Vermont 05401
MAIN OFFICE: 888.392.0050
FAX: 802.863-7515
staff@investeap.org

Employee Access to Information

49 CFR part 40 and 49 CFR part 382 must be available upon request to covered employees and representatives of employee organizations. 49 CFR part 40 is accessible on line at <http://www.dot.gov/ost/dapc>, by fax on demand at 1-800-225-3784 requesting document 151, by phone at 1-866-512-1800, or by writing to U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 400 Seventh Street SW, Room 10403, Washington, D.C. 20590.

APPENDIX C: CMV Drug & Alcohol Testing Policy – Personnel Acknowledgement Form

TOWN OF WINHALL

I HEREBY ACKNOWLEDGE that I have received a copy of and read and understand my employer's **CMV Drug & Alcohol Testing Policy**. I understand that I must abide by its terms as a condition of employment. I understand that during my employment I may be required to submit to a controlled substances and/or alcohol test based on U.S. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations.

I also understand that refusal to submit to a controlled substances or alcohol test is a violation of DOT regulations and the above referenced policy and may result in disciplinary action, including suspension (with or without pay) or termination of employment for gross and willful misconduct. I further understand the consequences of controlled substances and/or alcohol use as outlined in this policy.

I acknowledge that the provisions of my employer's CDL Drug and Alcohol Policy are part of the terms and conditions of my employment, and that I agree to abide by them.

By signing below, I also acknowledge that I understand the meaning of this form and agree that it will be used to document my understanding of the CDL Drug & Alcohol Testing Policy.

Printed Name of Employee/Applicant: _____

Signature of Employee/Applicant: _____

Employee/Applicant CDL ID #

Date: _____

Witness Signature: _____

Date: _____

***Original Acknowledgment of Receipt and Understanding will be kept in the Driver's Qualification File.
Check here to confirm copy given to employee/applicant.***

APPENDIX D: Drug Cutoff & Testing Limits as per DOT Rule 49 CFR Part 40 Section 40.87

Initial test analyte	Initial test cutoff ¹	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) ²	50 ng/mL ³	THCA	15 ng/mL.
Cocaine metabolite (Benzoylecgonine)	150 ng/mL ³	Benzoylecgonine	100 ng/mL.
Codeine/ Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL. 2000 ng/mL.
Hydrocodone/ Hydromorphone	300 ng/mL	Hydrocodone Hydromorphone	100 ng/mL. 100 ng/mL.
Oxycodone/ Oxymorphone	100 ng/mL	Oxycodone Oxymorphone	100 ng/mL. 100 ng/mL.
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamine/ Methamphetamine	500 ng/mL	Amphetamine Methamphetamine	250 ng/mL. 250 ng/mL.
MDMA ⁴ /MDA ⁵	500 ng/mL	MDMA MDA	250 ng/mL. 250 ng/mL.

¹For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

²An immunoassay must be calibrated with the target analyte, Δ-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

³*Alternate technology (THCA and Benzoylecgonine):* When using an alternate technology initial test for the specific target analytes of THCA and Benzoylecgonine, the laboratory must use the same cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100ng/mL for Benzoylecgonine).

⁴Methylenedioxymethamphetamine (MDMA).

⁵Methylenedioxyamphetamine (MDA).

NOTE: These cutoff limits may be subject to periodic revision by DOT.

[65 FR 79526, Dec. 19, 2000, as amended at 75 FR 49862, Aug. 16, 2010; 77 FR 26473, May 4, 2012; 82 FR 52244, Nov. 13, 2017]

ADDENDUM D
Employee Benefit Reimbursement Form

TOWN OF WINHALL ~ BENEFIT REIMBURSEMENT FORM

EMPLOYEE: _____

EXPENSE CODE: _____

Date Incurred	Type of Benefit	Explanation of Activities Performed	Total

TOTAL REIMBURSEMENT REQUESTED

\$

SIGNATURE

DATE