

Town of Pomfret

5218 Pomfret Road
North Pomfret, VT 05053

Agenda for February 19, 2014 Regular Selectboard Meeting Meeting to be held at 7 pm in the Town office and is open to the public

- Call to order
- Review of the agenda
- Approval of minutes of prior meetings: 1/8/14, 1/12/14, 1/15/14-1/20/14, and 2/5/14 (see website <http://pomfretvt.us/index.php/select-board1/minutes/>)
- Road Foreman's Report
 - Peter Holden of Holden Engineering to present findings on bridge work (*See attached email, page 2*)
 - [Snowbanks blocking certain roads during winter including unplowed section of Johnson Road.](#)
- Pomfret Zoning Board of Adjustment (ZBA)
 - Request for payment for attorney consultation regarding Smith-Siebeck Appeal of 10/7/13
- Town Clerk's Report
- Town Treasurer's Report
 - Review and action on warrants for payment
- Website Report
 - Change to new webhost provider [and restructuring the town website \(See Pomfret Town Website Restructuring attached page 4\)](#)
 - Contract with Virtual Towns & Schools
- Public Records Requests
 - Procedures generally
 - Requests for emails
 - Requests for paycheck information
 - Public Records request by The Vermont Standard dated 2/6/2014
- Update on identifying assistance with financial reporting/NEMRC
- Selectboard Statement on the 2013 Surplus ([See attached explanation of 2103 Budget Surplus as prepared by Neil Lamson, page 6](#))
- Emergency services antenna/repeater
 - Delegation of selectboard member to assist with long-term solutions to antenna/repeater location(s)
- Selectboard Clerk's use of cell phone and laptop
- Town Policies
 - Website and the posting/storage of draft/approved Minutes and other documents
 - Retention of public records created by selectboard (*see attached policy, page 7*)
 - Selectboard Meeting Guidelines (*See attached revised draft, page 8, and proposed changes by Michael Reese, page 10*)
 - Selectboard Meeting Resolution *See attached revised draft, page 13, and proposed changes by Michael Reese, page 14*)
 - Town Purchasing Policy (*See attached draft, page 16, and model policy from VLCT, page 19*)
 - Conflict of Interest Policy (*See attached draft based upon VLCT Model, page 24*)
 - Personnel Policy (*See attached policy, page 27, and model policy from VLCT, page 42*)
- Other business

Cost assessment for Barber Hill Road bridge

Holden Engineering & Surveying <hes@holdenengineering.com>

Tue 1/28/2014 8:33 AM

To: Michael Reese <Michael.Reese@pomfretvt.us>;

Cc: Donna Holden <dholden@holdenengineering.com>; Reception - HES <reception@holdenengineering.com>;

Hello Michael,

Thank you for taking my call yesterday regarding Pomfret, VT bridges B5 (Stage Road over Pomfret Brook), B9 (Pomfret Road over Pomfret Brook), and B21 (Barber Hill Road over Cloudland Brook).

In our conversation, you mentioned a letter from VTrans regarding recommendations for Bridge B21 on Barber Hill Road. It would be most helpful in our review, if you could forward any pertinent letters and/or reports from VTrans regarding this Barber Hill Road bridge.

Holden Engineering can review the original study for bridges B5 & B9 at no cost to determine if there are other more viable construction options. We can also perform a free preliminary cost assessment for bridge B21 on Barber Hill Road to help the Town better determine cost alternatives.

Our goal is to help the Town upfront by identifying the most cost effective alternatives now, and then if/when you decide to move forward with the project(s), we would be interested in submitting a proposal for the design work.

Peter Holden would like to come to Pomfret to take a look at these bridges to investigate new alternatives that could potentially better fit within the Town's budget for rehabilitation or replacement. Peter welcomes the opportunity to be on your agenda for the February 19 Selectboard meeting to discuss providing preliminary cost assessments for these bridges, at no charge.

Please let us know if you can set aside time for Peter Holden in your 2/19/2014 Selectboard meeting agenda to discuss.

Best regards,

Michael Glazner

HES PIN: 1220480

Holden Engineering & Surveying, Inc.
PO Box 480
Concord, NH 03302

2/3/2014

Cost assessment for Barber Hill Road bridge - Michael Reese

Ph (603)472-2078

Fx (603)472-2464

Pomfret Town Website Restructuring

Home

Departments

Town Clerk

Treasurer

Property Assessment

Assessment Info

Appeal Process

(Any other pages needed)

Planning & Zoning

Planning Commission

Minutes

(Any other pages needed)

Zoning Board of Adjustment

Permits

Zoning Info/Ordinances

(Any other pages needed)

Zoning Administrator

Highway

(Any other pages needed)

Tropical Storm Irene Slideshow

Emergency Services

Fire

Fast Squad

Emergency Management

School

Boards & Officials - (Town Officers on this page)

Select Board

Meeting Minutes

(Any other pages needed)

Auditors

School Board (one page)

Pomfret School Directors

WUHS Directors

(Any other pages needed)

Library Trustees

Minutes?

(Any other pages needed)

Other Officials (one page)

Trustees of Public Funds

Justices of the Peace

Cemetery Commission

Collector of Delinquent Taxes

Grand Juror

Town Agent

Constable

(Any other pages needed)

Local Organizations (links to other websites, or pages of contact info)

- Library
- Pomfret School
- Woodstock HS
- Historical Society
- Local Churches
- Artistree
- 4H Clubs
- Scouting
- Ladies Circle
- Pomfret Trust
- Etc...

Documents

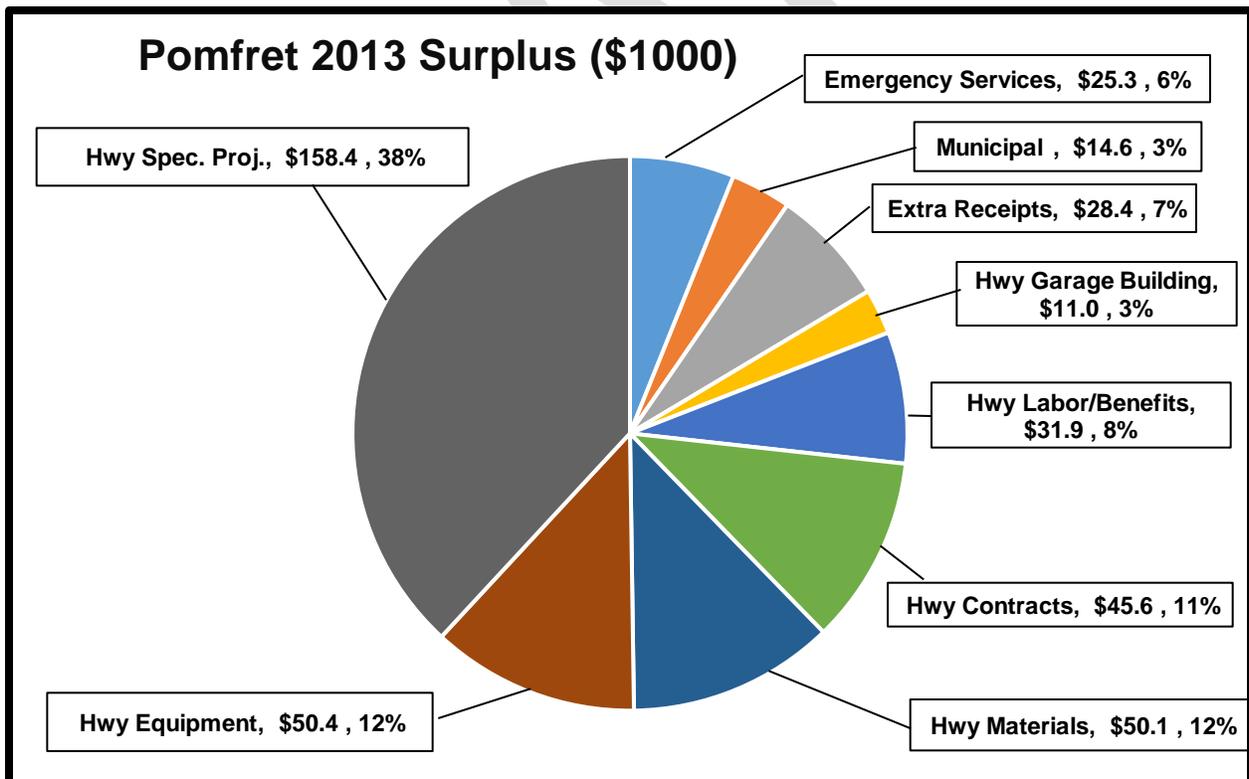
- Reports
 - Town Reports
 - Financial Reports
- Ordinances
- Policies
- Archives
 - Minutes
 - Select Board
 - Planning Commission
 - ZBA
 - Recordings
 - Town Meeting
 - Select Board

2013 Budget Surplus

In the calendar year 2013 the town experienced an unprecedented surplus of \$421,249.64. The details of this surplus are shown below:

Budget Item	Surplus	Reasons for Surplus
Emergency Services	\$25,367	No unpaid ambulance bills, delayed insurance billing
Other municipal	\$14,687	Change in Windsor County tax, Low town hall maintenance
Extra receipts	\$28,368	Extra state aid for highways, FEMA payments for July storms
Highway garage	\$10,986	Less building maintenance than budget
Highway labor/benefits	\$31,952	Loss of two employees
Highway contracts	\$45,637	Road side mowing saving, no paving or crack sealing
Highway materials	\$50,009	Did not chloride roads due to wet summer Less crushed stone, culverts and band rail than budget
Highway equipment	\$50,365	Less major repairs due to equipment inactivity
Highway special projects	\$158,389	Did not construct Teago bridge Did not complete Sessions Meadow project

Most of the surplus was related to two highway crew members resigning. The chart below shows that 83% of the surplus came from highway budget items.



Town of Pomfret
5218 Pomfret Road
North Pomfret, VT 05053

STATEMENT CONCERNING
PUBLIC RECORDS CREATED BY THE POMFRET SELECTBOARD

May 1, 2013

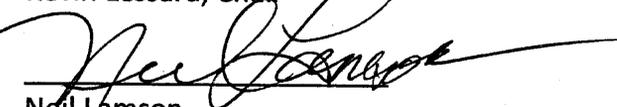
All audio recordings of selectboard meetings, minutes of selectboard meetings, letters, applications and reports created by or acted on by the Pomfret selectboard are public records. The selectboard clerk is the custodian of these public records and is responsible for retaining copies and responding to request to inspect or copy these public records.

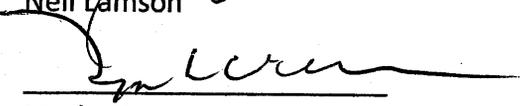
In order to make it more convenient for the public, the Pomfret selectboard clerk will promptly deliver all selectboard public records to the Pomfret town clerk, who, as the custodian of public records, will retain the selectboard public records.

Persons wishing to inspect or request copies of selectboard public records or any other public records should make their requests to the Pomfret town clerk.

Pomfret Selectboard


Kevin Lessard, Chair


Neil Lamson


Mark Warner

Town of Pomfret

5218 Pomfret Road
North Pomfret, VT 05053

DRAFT REVISED Selectboard Meetings Guidelines

Purpose

These guidelines are intended to assist the selectboard to effectively deal with emerging issues in a timely and consistent manner and afford the public reasonable opportunity to give its opinion on matters considered by the selectboard. The selectboard of the Town of Pomfret is required by law to conduct its meetings in accordance with the Vermont Open Meeting Law. 1 V.S.A. §§ 310-314. Meetings of the selectboard of the Town of Pomfret shall be open to the public at all times, except as provided in 1V.S.A. §313.

Application

This policy establishes guidelines for selectboard meetings and shall apply to all regular, special, and emergency meetings of the Town of Pomfret selectboard.

Procedures

1. The chair of the selectboard shall chair all selectboard meetings. If the chair is absent, a member selected by the selectboard shall chair the meeting.
2. The chair shall rule on all questions of order or procedure and shall enforce these guidelines as required by 1 V.S.A. § 312(h).
3. A majority of the members of the selectboard shall constitute a quorum. If a quorum of the members of the selectboard is not present at a meeting, the only action that may be considered by the selectboard is a motion to recess or adjourn the meeting. All binding decisions made by the selectboard must be approved by a majority of the selectboard at a public meeting and should be clearly stated by chair during the selectboard meeting.
4. Agendas
Agendas for special and emergency selectboard meetings will be approved at the beginning of the meetings. Since these meetings are usually called for specific purposes, there will be no advance public notice of the agendas.

Each regular selectboard meeting should have an agenda which lists each item of business to be considered by the selectboard. The regular selectboard meetings agendas will be prepared by the selectboard clerk, reviewed by the selectboard members and approved by the selectboard chair. The selectboard chair will then submit the agendas of regular selectboard meetings to the town clerk for posting in the town office and distribution to people who have requested a copies of the agendas. The selectboard will approve the agenda at the beginning of each regular selectboard meeting.

Persons wishing to have items included on the regular selectboard meeting agendas should contact the selectboard clerk to request that the item(s) be considered for inclusion on the agendas. Such requests must be made at least five (5) calendar days prior to the regular selectboard meeting. Requests received less than five (5) calendar days prior to the regular selectboard meeting will be considered for inclusion on future selectboard meeting agendas at the discretion of the selectboard chair.

5. All business should be conducted in the same order as it appears on the agenda, unless changed by a majority vote of the selectboard.

6. Public comment on agenda items discussed by the selectboard may be offered during the meeting with the permission of the chair. Such public comment shall be limited to five (5) minutes for each person offering a public comment.

Written comments on agenda items may be submitted to the selectboard at any time. The selectboard chair should make note of the receipt of written comments during the discussion but is not required to read them aloud at the selectboard meeting. All such written comments are public records and will be available for public inspection or copying.

7. The minutes of all selectboard meetings will be taken by the selectboard clerk or another person designated by the selectboard. The draft minutes may be reviewed by the selectboard before the selectboard clerk makes them “available for inspection by any person and for purchase of copies at cost upon request after five days from the date of any meeting” 1 VSA § 312. (b)(2). The draft minutes will be clearly labelled as “draft”. After draft minutes have been approved by the selectboard, the selectboard clerk will prepare the approved minutes by making any additions and/or corrections to the draft minutes and clearly labeling them as “approved”. The approved minutes will be signed by the selectboard clerk and a copy will be filed with the town clerk.

8. All selectboard meetings may be recessed to a time and place certain. Minutes of recessed meetings must be filed with the town clerk within five days of the adjournment of the meetings.

9. Copies of these guidelines will be available upon request at all selectboard meetings.

10. These guidelines may be amended by majority vote of the selectboard, and should be readopted annually at the organizational meeting.

Approved at the regular selectboard meeting held on _____

Town of Pomfret

5218 Pomfret Road
North Pomfret, VT 05053

DRAFT REVISED Selectboard Meetings Guidelines **with Proposed Changes by Michael Reese 2-9-14**

Purpose

These guidelines are intended to assist the selectboard to effectively deal with emerging issues in a timely and consistent manner and afford the public reasonable opportunity to give its opinion on matters considered by the selectboard. The selectboard of the Town of Pomfret is required by law to conduct its meetings in accordance with the Vermont Open Meeting Law. 1 V.S.A. §§ 310-314. Meetings of the selectboard of the Town of Pomfret shall be open to the public at all times, except as provided in 1V.S.A. §313.

Application

This policy establishes guidelines for selectboard meetings and shall apply to all regular, special, and emergency meetings of the Town of Pomfret selectboard.

Procedures

1. The chair of the selectboard shall chair all selectboard meetings. If the chair is absent, a member selected by the selectboard shall chair the meeting.
2. The chair shall rule on all questions of order or procedure and shall enforce these guidelines as required by 1 V.S.A. § 312(h).
3. A majority of the members of the selectboard shall constitute a quorum. If a quorum of the members of the selectboard is not present at a meeting, the only action that may be considered by the selectboard is a motion to recess or adjourn the meeting. All binding decisions made by the selectboard must be approved by a majority of the selectboard at a public meeting and should be clearly stated by chair during the selectboard meeting.
4. Agendas for all selectboard meetings will be approved at the beginning of the meetings.
~~Since special and emergency selectboard meetings are usually called for specific purposes, there will be no advance public notice of these agendas.~~

Each ~~regular~~ selectboard meeting should have an agenda which lists each item of business to be considered by the selectboard. ~~The regular selectboard meeting agendas will be prepared by the selectboard clerk, approved by the selectboard chair and submitted to the town clerk who will post it in the town office and on the town web site and distribute it to people who have requested a copies of the agendas.~~

Persons wishing to add items to any agenda should contact ~~the any~~ selectboard member clerk five (5) calendar days before the selectboard meetings. Requests received less than five (5) calendar days prior to the regular selectboard meeting may be considered for inclusion on future selectboard meeting agendas at the discretion of the selectboard ~~chair~~.

5. All business should be conducted in the same order as it appears on the agenda, unless changed by a majority vote of the selectboard.

6. Public comment on agenda items discussed by the selectboard may be offered during the meeting with the permission of the chair. Such public comment ~~shall~~may be limited to five (5) minutes for each person offering a public comment depending upon time constraints as determined by a majority of the board.

Written comments, including email messages, on agenda items may be submitted to the selectboard at any time. ~~The selectboard chair should make note of the receipt of written comments during the discussion but is not required to read them aloud at the selectboard meeting.~~ All such written comments are public records and will be available for public inspection or copying ~~and will not be included in the meeting minutes~~.

~~7. The minutes of all selectboard meetings will be taken by the selectboard clerk or another person designated by the selectboard. The selectboard clerk will approve the draft minutes, clearly label them as "draft" and make them "available for inspection by any person and for purchase of copies at cost upon request after five days from the date of any meeting" 1-VSA § 312. (b)(2). The selectboard clerk will also forward a copy of the draft minutes to the town clerk who will post them on the town web site and distribute them to persons who have requested copies. After the draft minutes have been approved by the selectboard, the selectboard clerk will prepare the approved minutes by making any additions and/or corrections to the draft minutes and clearly labeling them as "approved". The selectboard clerk will sign the approved minutes and submit a copy to the town clerk for filing and posting on the town web site.~~

~~8. All selectboard meetings will be audio recorded. The audio recordings of selectboard meetings will be available for inspection and copying and posted on the town web site within five (5) calendar days after the meeting.~~

9. All selectboard meetings may be recessed to a time and place certain.

10. Copies of these guidelines will be available upon request at all selectboard meetings.

11. These guidelines may be amended by majority vote of the selectboard, and should be readopted annually at the organizational meeting.

Approved at the regular selectboard meeting held on _____

Town of Pomfret
5218 Pomfret Road
North Pomfret, VT 05053

REVISED 2013 Meeting Resolution DRAFT 11/24/13

Regular meetings of the Pomfret selectboard will be held the first and third Wednesday of each month at the town office at 7:00 pm as was published in the 2012 Annual Report.

The selectboard will hold a selectboard meeting every Monday at 7 am in the town garage to discuss activities of the highway department. At these meetings no formal actions will be taken and no money will be appropriated, expended, or encumbered. These meetings are open to the public.

Special meetings of the Pomfret selectboard will be announced at least 24 hours before the meetings and notices will be given to local media and posted on the town webpage and in the Town Office, the North Pomfret Post Office and the Teago General Store. All selectboard meetings (regular, special and emergency) are open to the public and subject to the Open Meetings Law (1 VSA § 310-314).

The agendas for all regular selectboard meetings will be prepared by the selectboard clerk, reviewed by the selectboard, approved by the selectboard chair and submitted to the town clerk prior to the meetings. The town clerk will post the agendas in the town clerk's office and distribute copies to persons who have requested copies of the agendas. Persons wishing to add items to any agenda should contact the selectboard clerk five (5) calendar days before the selectboard meetings.

The selectboard clerk will file the draft of the minutes of all selectboard meetings with the town clerk within five (5) calendar days after the meetings. After the minutes are approved by the selectboard, the selectboard clerk will sign the approved minutes and file them with the town clerk. Any person may request the selectboard clerk or the town clerk to furnish a copy of the draft or approved minutes of any selectboard meeting for inspection or copying.

Selectboard members may, from time to time and in the best interest of the Town, discuss town business in person, in writing, by telephone or by email exchanges during which no formal actions will be taken and no money will be appropriated, expended, or encumbered. Items that may be discussed include but are not limited to the maintenance and repair of town highways, equipment and buildings; the scheduling of meetings; and the review of draft meeting agendas, draft meeting minutes, draft policies, draft ordinances, draft contracts and draft letters. The selectboard considers these communications to be conducting routine day-to-day administrative matters and they will be outside of duly warned meetings (1VSA§312 (g)).

Approved at the _____ regular selectboard meeting.

Michael Reese, Chair

Neil Lamson

Mark Warner

Town of Pomfret
5218 Pomfret Road
North Pomfret, VT 05053

REVISED 2013 Meeting Resolution DRAFT #2 12/18/13 with
Proposed Changes by Michael Reese on 2-9-14

Regular meetings of the Pomfret selectboard will be held ~~every other on the first and third~~ Wednesdays of each month starting on the first Wednesday after town meeting at the town office at 7:00 pm as published in the Annual Report.

~~The selectboard will hold a selectboard meeting every Monday at 7 am in the town garage to discuss activities of the highway department. At these meetings no formal actions will be taken and no money will be appropriated, expended, or encumbered. These meetings are open to the public.~~

Special meetings of the Pomfret selectboard shall be ~~announced~~ noticed at least 24 hours before the meetings and notices shall be distributed to the town's public email list, given to any local media requesting such notices, and posted on the front page of the town webpage, ~~and~~ in the Town Office, the North Pomfret Post Office and the Teago General Store. Emergency meetings shall only be called when necessary to respond to an unforeseen occurrence or conditions requiring immediate attention by the selectboard. Notice of emergency meetings shall be distributed to the town's public email list and posted on the front page of the website. All selectboard meetings (regular, special and emergency) are open to the public and subject to the Open Meetings Law (1 VSA § 310-314).

~~Agendas for all meetings~~ The agendas for all regular selectboard meetings will be prepared by the selectboard clerk, approved by the selectboard chair and submitted to the town clerk prior to the meetings. The town clerk shall post the shall be posted agendas in the town clerk's office and ~~on~~ the town web site along with all documents relating to the Agenda, and distribute copies to persons who have requested copies ~~of the agendas~~. Persons wishing to add items to any agenda should contact the selectboard clerk five (5) calendar days before the selectboard meetings.

The minutes of all selectboard meetings shall be taken by the selectboard clerk or another person designated by the selectboard. The selectboard clerk shall approve the draft minutes, clearly label them as "draft" and make them "available for inspection by any person and for purchase of copies at cost upon request after five days from the date of any meeting" 1 VSA § 312. (b)(2). The selectboard clerk shall also ~~forward a copy of the draft minutes to the town clerk who shall arrange to~~ post them on the town web-site and distribute them to persons who have requested ~~copies~~. After the draft minutes have been approved by the selectboard, the selectboard clerk shall prepare the approved minutes by making any additions and/or corrections to the draft minutes and clearly labeling them as "approved". The selectboard clerk shall sign the approved minutes and ~~submit a copy to the town clerk for filing shall arrange to post them, and posting~~ on the town web site.

All selectboard meetings will be audio recorded. The audio recordings of selectboard meetings shall be available for inspection and copying and posted on the town web site as soon as possible after the meeting and with the objective of not longer within five (5) calendar days after the meeting.

~~Selectboard members may, from time to time and in the best interest of the Town, discuss town business in person, in writing, by telephone or by email exchanges during which no formal actions will be taken and no money will be appropriated, expended, or encumbered. Items that may be discussed include but are not limited to the maintenance and repair of town highways, equipment and buildings; the scheduling of meetings; and the review of draft meeting agendas, draft meeting minutes, draft policies, draft ordinances, draft contracts and draft letters. The selectboard considers these communications to be conducting routine day-to-day administrative matters and they will be outside of duly warned meetings (1VSA§312 (g)).~~

Approved at the _____ regular selectboard meeting.

Town of Pomfret

5218 Pomfret Road
North Pomfret, VT 05053
Tel (802) 457-3861

Purchasing Policy for the Town of Pomfret

1. **PURPOSE.** The purpose of this policy is to create a process for purchasing goods and services that will increase efficiency, promote fairness, accountability and confidence, and provide necessary supplies and services in a timely and cost-effective manner.
2. **APPLICATION.** This policy shall apply to all purchases of goods and services by the Town of Pomfret except where conditions of state or federal funds or conditions of a grant, gift or bequest mandate otherwise.
3. **DEFINITIONS.**
 - 3.1. Major purchases are those purchases of goods or services in an amount over \$5000.
 - 3.2. Regular purchases are those purchases of goods or services in an amount of at least \$1,000 but less than \$5001.
 - 3.3. Incidental purchases are those purchases of goods and services in an amount of less than \$1,000.
 - 3.4. Emergency purchases are those urgent purchases of goods and services which are required to protect the public health, safety and welfare.
 - 3.5. Competitive solicitation is the soliciting of bids or quotes from two or preferably three vendors and the selection of the vendor based on quality of the goods and services offered, cost and the ability, capacity and skill of the vendor demonstrated under prior contracts with the Town of Pomfret.
 - 3.6. Sole source vendor is a vendor approved by the selectboard to provide certain goods and services for the Town of Pomfret.
4. **PROCEDURES.**
 - 4.1. **Major purchases** require a formal bid process which shall include, but **is** not limited to:
 - 4.1.1. Advertisement of the invitation to bid (ITB) or request for proposal (RFP) for at least one week in a newspaper of general circulation in the Town of Pomfret or other newspapers at the discretion of selectboard; and

- 4.1.2. Direct ITB or RFP notices to specific providers at the discretion of the selectboard;
 - 4.1.2.1. ITB and RFP notices shall include, but are not limited to:
 - 4.1.2.1.1. Notice of the place and deadline for receipt of the sealed bids or proposals;
 - 4.1.2.1.2. A description of the supplies, materials, equipment or services required and information on how and where to obtain more detailed specifications and bid or proposal forms;
 - 4.1.2.1.3. Information on insurance requirements for the bidder or proposer;
 - 4.1.2.1.4. A statement of the right of the Town of Pomfret to reject any and all bids or proposal if doing so is deemed by the selectboard to be in the best interests of the Town of Pomfret;
 - 4.1.2.1.5. The time and place for the public opening of the bids or proposals by the selectboard at a time not less than 10 business days after the deadline for receipt; and
 - 4.1.2.1.6. The time and place for action by the selectboard on the bids or proposals received.
 - 4.1.2.1.7.
 - 4.2. **Regular purchases** may be made by the road commissioner or individual selectboard members by competitive solicitation. Such purchases shall be ratified by the selectboard at a duly warned selectboard meeting.
 - 4.3. **Incidental purchases** may be made by the road commissioner or individual selectboard members without competitive solicitation.
 - 4.4. **Emergency purchases.** When an emergency threatens the health, lives or property of the residents of the Town, or threatens the property of the Town or the delivery of necessary services to the residents of the Town, individual selectboard members, the health officer, road commissioner, fire chief, constable, emergency management director, tree warden or fire warden shall have the authority to purchase emergency supplies and services while acting in the best interests of the town.
 - 4.5. **Sole source vendor.** The selectboard may approve a sole source vendor for goods or services. Approval shall be made a duly warned selectboard meeting and shall appear on the agenda of said selectboard meeting prior to the meeting. The decision to approve a sole source vendor shall take into account general availability of the goods or services, quality and cost of the goods and services, and the ability, capacity and skill of the vendor demonstrated under prior contracts with the Town of Pomfret.
5. **Leasing equipment.** The selectboard shall approve all leasing of equipment.
 6. **Purchase of professional services.** The purchase of professional services for the Town of Pomfret shall be exempt from the formal bid process. Such services include, but are not limited to, legal counsel, insurance, engineering/architectural services and consulting services. The selectboard may purchase such services according to the best interests of the Town of Pomfret.

7. **Cooperative purchasing.** The Town of Pomfret may enter into cooperative lease or purchase agreements with other municipalities, at the discretion of the selectboard.

Adopted at the regular selectboard meeting on _____, 2013.

Michael Reese, Chair

Neil Lamson

Mark Warner

Section 2. Model Purchasing Policy

Vermont law does not require competitive bidding for municipal purchases. However, public scrutiny of the procurement process indicates the necessity for a purchasing policy. The primary objective of such a policy should be to procure the necessary goods and services in an efficient, timely, and cost-effective manner, as well as to encourage the most open, competitive purchasing process practicable to acquire these goods and services at the best possible value while treating all vendors equitably. Such goals will increase the public's confidence in the procurement process.

Unlike most other financial policies that establish broad objectives, purchasing policies blur the line between policies and procedures. Policy elements would include such items as the assignment of authority; procedural elements would include the outline of the bidding process.

Consider the following when developing a purchasing policy:

Purchasing Authority Limits. As described above, the selectboard carries out its responsibility to manage the town budget through its authority to approve orders for payment of town funds. 24 V.S.A. §§ 1567, 1621, 1622. Other boards – such as the board of library trustees and the cemetery commissioners – have corresponding responsibilities to manage their budgets and similar authority to approve orders.

As a budget management tool, the order approval process has a significant shortcoming: orders are typically approved or disapproved by the appropriate board only after a bill has been received for goods or services. In some instances, a town employee or officer could obligate the town to a purchase that would not be approved by the appropriate board. In order to manage this risk, the board should determine the limit of purchasing authority delegated to town officials and employees through a purchasing policy.

Competitive Bidding. While competitive bidding is not required under Vermont law, it can have significant advantages for local governments. A choice of purchasing options allows a municipality to locate the most cost-effective suppliers of goods and services and make effective cost/quality comparisons. The process may include verbal and/or written quotations for purchases below a certain dollar threshold and a formal bidding process for higher dollar purchases. The use of such a process does not necessitate a low-bidder approach. The procedures should be drafted to emphasize what selection criteria will be used in considering each bid. The policy should also address what exceptions may exist to the policy, such as sole source purchases, emergency purchases, or professional services.

Ethics and Conflicts of Interest. If a municipality does not have a separate code of ethics or conflict of interest policy, the purchasing policy can include a provision for such issues. It should be clear that employees are expected to be impartial in carrying out their duties to assure fair competitive access to purchasing by qualified vendors, to prohibit gratuities or other favorable treatment, and to prohibit the use of confidential information for personal gain. VLCT's Model Conflict of Interest Policy is available in VLCT's online Resource Library at <http://resources.vlct.org>.

Preference Provisions. Purchasing policies can be used to achieve other public policy goals, such as a preference for local vendors or for minority/disadvantaged vendors, or a preference for “green” purchases or sustainability.

More information on municipal purchasing policies is available from Municipal Research and Services Center of Washington at www.mrsc.org/Subjects/PubWorks/pb/purchasing.aspx.

PURCHASING POLICY

Town of _____

PURPOSE. The purpose of this Purchasing Policy is to obtain the highest quality goods and services for the Town of _____ at the lowest possible price, to exercise financial control over the purchasing process, to clearly define authority for the purchasing function, to allow fair and equal opportunity among qualified suppliers, and to provide for increased public confidence in the procedures followed in public purchasing.

PURCHASE AUTHORIZATION. No purchases over \$_____ shall be made by any Town officer or employee without prior approval of the selectboard. When making any purchase not subject to the bid process described below, officers and employees must solicit quotes from at least two vendors unless the selectboard has approved a sole source vendor. Vendors will be selected based on cost, the quality of the goods and services offered, and the ability, capacity, and skill of the vendor demonstrated under prior contracts with the Town.

BID PROCESS. All purchases of \$_____ or more shall be subject to a bid process. The bid process shall be initiated by the issuance of a request for bids prepared by the selectboard. Notice of the request for bids shall be made by letters to known providers soliciting bid responses, advertisements posted in three public locations within the Town, and advertisements placed in a newspaper of general circulation in the region.

BID SPECIFICATIONS. Bid specifications shall include:

1. Bid name.
2. Bid submission deadline.
3. Date, location, and time of bid opening.
4. Specifications for the project or services including quantity, design, and performance features.
5. Bond and/or insurance requirements.
6. Any special requirements unique to the purchase.
7. Delivery or completion date.

Once a request for bids has been issued, the bid specifications will be available for inspection at the Town office.

BID SUBMISSION. All bids must be submitted in sealed envelopes, addressed to the Town in care of the selectboard, and plainly marked with the name of the bid and the time of the bid opening. Bid proposals will be date stamped on the outside of the envelope immediately upon receipt. Any bid may be withdrawn in writing prior to the scheduled time for the opening of bids. Any bids received after the time and date specified shall not be considered and shall be returned to the bidder unopened.

Bidders shall bid to specifications and any exceptions must be noted. A bidder submitting a bid thereby certifies that the bid is made in good faith without fraud, collusion, or connection of any

kind with any other bidder for the same work, and that the bidder is competing solely on his/her behalf without connection with or obligation to any undisclosed person or firm.

BID OPENING. Every bid received prior to the bid submission deadline will be publicly opened and read aloud by the selectboard. The bid opening will include the name and address of bidder; for lump sum contracts, the lump sum base bid and the bid for each alternate; for unit price contracts, the unit price for each item and the total, if stated; and the nature and the amount of security furnished with the bid if required.

CRITERIA FOR BID SELECTION. In evaluating bids, the selectboard will consider the following criteria:

1. Price.
2. Bidder's ability to perform within the specified time limits.
3. Bidder's experience and reputation, including past performance for the Town.
4. Quality of the materials and services specified in the bid.
5. Bidder's ability to meet other terms and conditions, including insurance and bond requirements.
6. Bidder's financial responsibility.
7. Bidder's availability to provide future service, maintenance, and support.
8. Nature and size of bidder.
9. Any other factors that the selectboard determines are relevant and appropriate in connection with a given project or service.

The selectboard reserves the right at its sole discretion to reject any and all bids, wholly or in part, to waive any informalities or any irregularities therein, to accept any bid even though it may not be the lowest bid, to call for rebids, to negotiate with any bidder, and to make an award which in its sole and absolute judgment will best serve the Town's interest. The selectboard reserves the right to investigate the financial responsibility of any bidder to determine his or her ability to assure service throughout the term of the contract.

CHANGE ORDERS. If specification changes are made prior to the close of the bid process, the Request For Bids will be amended and notice shall be sent to any bidder who already submitted a bid and a new bid process will be initiated. Once a bid has been accepted, if changes to the specifications become necessary, the selectboard will prepare a change order specifying the scope of the change. Once approved, the contractor and an authorized agent of the Town must sign the change order.

EXCEPTIONS

Sole Source Purchases. If the selectboard determines that there is only one possible source for a proposed purchase, it may waive the bid process and authorize the purchase from the sole source.

Recurring Purchases. If the total value of a recurring purchase of a good or service is anticipated to exceed \$_____ during any fiscal year, the bid process shall be utilized and shall specify the recurring nature of the purchase. Once a bid has been accepted, all future

purchases shall be made from that bidder without necessity of additional bids, until such time as the selectboard votes to initiate a new bid process.

Emergency Purchases. The selectboard may award contracts and make purchases for the purpose of meeting the public emergency without complying with the bid process. Emergency expenditures may include immediate repair or maintenance of town property, vehicles, or equipment if the delay in such repair or maintenance would endanger persons or property or result in substantial impairment of the delivery of important Town services.

Professional Services. The bid process shall not apply to the selection of providers for services that are characterized by a high degree of professional judgment and discretion including legal, financial, auditing, engineering, risk management, and insurance services.

The foregoing Policy is hereby adopted by the selectboard of the Town of _____, Vermont, this ___ day of _____ and is effective as of this date until amended or repealed.

Chairperson

DRAFT CONFLICT OF INTEREST POLICY

Town of Pomfret

[For adoption by legislative body as a policy; applies to all public officers and employees]

Article 1. Authority. Under the authority granted in 24 V.S.A. § 2291(20), the selectboard of Pomfret hereby adopts the following policy concerning conflicts of interest.

Article 2. Purpose. The purpose of this policy is to ensure that the business of this municipality will be conducted in such a way that no public official of the municipality will gain a personal or financial advantage from his or her work for the municipality and so that the public trust in municipal officials will be preserved. It is also the intent of this policy to insure that all decisions made by municipal officials are based on the best interest of the community at large.

Article 3. Definitions. For the purposes of this policy, the following definitions shall apply:

A. Conflict of interest means any of the following:

1. A direct or indirect personal interest of a public officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the officer or before the public body in which he or she holds office or is employed;
2. A direct or indirect financial interest of a public officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the officer or before the public body in which he or she holds office or is employed;
3. A situation where a public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding. This shall not apply to a member's particular political views or general opinion on a given issue; and
4. A situation where a public officer has not disclosed ex parte communications with a party in a quasi-judicial proceeding.

B. Emergency means an imminent threat or peril to the public health, safety or welfare.

C. Official act or action means any legislative, administrative or judicial act performed by any elected or appointed officer or employee while acting on behalf of the municipality.

D. Public body means any board, council, commission or committee of the municipality.

E. Public interest means an interest of the community as a whole, conferred generally upon all residents of the municipality.

F. Public officer or public official means a person elected or appointed to perform executive, administrative, legislative or quasi-judicial functions for the municipality.

G. Quasi-judicial proceeding means a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunities to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, the result of which is appealable by a party to a higher authority.

Article 4. Disqualification.

A. A public officer shall not participate in any official action if he or she has a conflict of interest in the matter under consideration.

B. A public officer 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 public body in which the officer holds office or is employed.

C. In the case of a public officer who is an appointee, the public body which appointed that public officer shall have the authority to order that officer to recuse him or herself from the matter.

D. Public officers shall not accept gifts or other offerings for personal gain by virtue of their public office that are not available to the public in general.

E. Public officers 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.

Article 5. Disclosure. A public officer who has reason to believe that he or she has or may have a conflict of interest but believes that he or she is able to act fairly, objectively and in the public interest in spite of the conflict of interest shall, prior to participating in any official action on the matter disclose to the public body at a public hearing the matter under consideration, the nature of the potential conflict of interest and why he or she believes that he or she is able to act in the matter fairly, objectively and in the public interest. Nevertheless, the person or public body which appointed that public officer retains the authority to order that officer to recuse him or herself from the matter, subject to applicable law.

Article 6. Recusal.

A. A public officer shall recuse him or herself from any matter in which he or she has a conflict of interest, pursuant to the following:

1. Any person may request that a member recuse him or herself due to a conflict of interest. Such request shall not constitute a requirement that the member recuse him or herself;

2. A public officer who has recused him or herself from a proceeding shall not sit with the board, deliberate with the board, or participate in that proceeding as a board member in any capacity;

3. If a previously unknown conflict is discovered, the board may take evidence pertaining to the conflict and, if appropriate, adjourn to a short deliberative session to address the conflict; and

4. The board may adjourn the proceedings to a time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the board. The board may then resume the proceeding with sufficient members present.

In the case of a public officer who is an appointee, the public body which appointed that public officer shall have the authority to order that officer to recuse him or herself from the matter, subject to applicable law.

Article 7. Enforcement; Progressive Consequences for Failure to Follow the Conflict of Interest Procedures. In cases where the conflict of interest procedures in Articles 5 and 6 have not been followed, the selectboard may take progressive action to discipline an offending public officer. In the discipline of a public officer, the board shall follow these steps in order:

A. The chair shall meet informally, in private, with the public officer to discuss possible conflict of interest violation.

B. The board may meet to discuss the conduct of the public officer. Executive session may be used for such discussion, in accordance with 1 V.S.A. § 313(4). The public officer may request that this meeting occur in public. If appropriate, the board may admonish the offending public officer in private.

C. If the board decides that further action is warranted, the board may admonish the offending public officer at an open meeting and reflect this action in the minutes of the meeting. The public officer shall be given the opportunity to respond to the admonishment.

D. Upon majority vote, the board may request that the offending public officer resign from the board.

Article 8. Exception. The recusal provisions of Article 6 shall not apply if the legislative body of the municipality determines that an emergency exists and that actions of the public body otherwise could not take place. In such cases, a public officer who has reason to believe he or she has a conflict of interest shall disclose such conflict as provided in Article 5.

Article 9. Effective Date. This policy shall become effective immediately upon its adoption by the Pomfret selectboard.

Signatures: _____

Date: _____

PERSONNEL POLICY

TOWN OF POMFRET

POMFRET, VERMONT

Adopted by the Selectmen: 7 Aug 1991

Revised 2 Oct 1991

" 17 Mar. 1999

--TOWN OF POMFRET PERSONNEL POLICY--

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GENERAL PROVISIONS

1. GENERAL PROVISIONS
- 1.1 PURPOSE
- 1.2 POSITIONS COVERED
- 1.3 ADMINISTRATION AND RECORDS
- 1.4 DEFINITIONS

1.1. PURPOSE. These policies, rules and regulations establish procedures to guide administrative action concerning personnel activities and transactions. They are intended to indicate the customary and reasonable method of carrying out the aims of the personnel program. It is also the purpose of this policy manual to inform employees of the Town of Pomfret regarding the conditions of work in the service of the Town.

1.2. POSITIONS COVERED. These rules and regulations apply to all employees of the Town except:
elected officers;
members of boards and commissions;
employees and officers whose appointments are by statute the responsibility of a town officer or board other than the Board of Selectmen;
employees of the school department;
persons employed temporarily in a professional capacity.

1.3 ADMINISTRATION. These rules shall be administered by the Board of Selectmen. Amendments to these rules shall be by resolution of the Board of Selectmen acting at a regular meeting.

1.4 DEFINITIONS. For the purposes of this manual the following definitions apply:

Calendar week- shall mean the period from Monday at 12:01AM to Sunday at 12:00 midnight.

Department- the functional units of town government are:
Selectmen's Office
Cemetary Commission
Highway Department
Zoning Office
Planning Commission
Conservation Commission

Supervisor- any person responsible as a supervisor for directing the work of others and who has disciplinary authority defined in this policy manual.

RECRUITMENT AND EVALUATION

- 2. RECRUITMENT AND EVALUATION
- 2.1 RECRUITMENT
- 2.2 APPOINTMENTS
- 2.3 PROBATION
- 2.4 EQUAL EMPLOYMENT OPPORTUNITY
- 2.5 PERFORMANCE EVALUATIONS

2.1. RECRUITMENT. The Road Commissioner shall be responsible for the employment of Highway Department workers.

2.2. APPOINTMENTS. The following types of appointments may be made to Town service:

2.2.1. Permanent employees- A permanent employee works full time and on a continuing basis. He is subject to all of the rules and regulations and receives all of the benefits and rights provided by this manual.

2.2.2. Emergency employees- In order to prevent stoppage of public business or loss or serious inconvenience to the public, appointment of employees on a temporary basis may be authorized by the Board of Selectmen for a period not to exceed 60 days.

2.2.3. Part-time employees- Work less than 30 hours per week and receive no benefits

2.3. PROBATION. All employees seeking permanent employment status shall serve a probationary period of two (2) month duration to demonstrate their capability, punctuality and responsibilities toward the job sought. During this probationary period the employee is not eligible for benefits except the payment of overtime.

2.4. EQUAL EMPLOYMENT OPPORTUNITY. The Town of Pomfret through its Board of Selectmen agrees that the Town shall employ without discrimination as to race, creed, or political affiliation, the best qualified persons available at the salary levels established for Town employment.

2.5. PERFORMANCE EVALUATIONS. It is the policy of the Town of Pomfret to conduct performance reviews with employees on a regular basis. The purpose of these reviews include assisting employees to attain their potential, providing a uniform basis for performance assessment, suitability for continuation beyond the probationary period, and to provide a record of employee progress.

2.5.1. Performance requirements are established by the Board of Selectmen in consultation with department heads.

2.5.2. Department heads are responsible for conducting thorough, impartial and timely performance reviews with employees who report directly to them.

2.5.3. Employees will be requested to complete an independent self-evaluation and to enter comments on the forms in the

RECRUITMENT AND EVALUATION

space provided. The supervisor shall review with the employee the self-evaluation and the supervisors evaluation and shall discuss any differences with the employee.

2.5.4. When it has been determined that the employee's performance is unsatisfactory, and improvement appears unlikely, the supervisor shall confer with the Board of Selectmen to determine whether the course of action shall be training, demotion, transfer or release.

CONDITIONS OF EMPLOYMENT

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3. CONDITIONS OF EMPLOYMENT

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3.1 PAY PLAN

3.1.1 The Board of Selectmen shall establish the hourly wage of all highway department employees. The recommendation of the Road Commissioner will be considered in arriving at the decision. Salary and wage reviews for highway department employees will take place but once a year at the first meeting of the Board of Selectmen in September.

3.2 WORK SCHEDULES

3.2.1 Highway Department employees shall have a standard 40 hour work week. All regular full-time hourly employees will be paid at a time and a half compensation rate after 8 hours worked per day when on a 5 day per week work schedule, or 10 hours worked per day when on a 4 day per week schedule, or over 40 hours paid per week.

3.2.2 Department heads are responsible to establish regular hours of work and shift schedules for their department

3.2.3 All employees shall be at their work in accordance with these regulations. Prompt appearance for work at the specified time is required of all employees.

3.3 HOLIDAYS

3.3.1. Regular full time employees shall have the following paid holidays:

New Year's Day	January 1st
Washington's birthday	3rd Monday in February
Memorial Day	Last Monday in May
Fourth of July	July 4th
Labor Day	1st Monday in September
Veteran's Day	November 11th
Thanksgiving Day	4th Thursday in November
Christmas Day	December 25th

CONDITIONS OF EMPLOYMENT

3.3.2 In order to receive compensation, employees must be in a pay status on the work day immediately preceding a holiday and the work day immediately following a holiday.

3.3.3. An employee called in for emergency work on these holidays must report for work or he will receive no pay for the holiday on which he is called, provided that he is contacted.

3.3.4 When work is required on a paid holiday the employee will be paid for the time worked in addition to the normal holiday wage. *AT TIME AND A HALF (per Selectmen's meeting 1/18/95)*

3.4 OVERTIME

3.4.1 Overtime authorized by the Road Commissioner shall be paid at the rate of 1-1/2 times the employee's regular rate of pay for hours worked beyond forty (40) hours in a standard work week.

3.4.2 Fringe benefits such as health insurance and vacation pay will not be used in the calculation of overtime pay.

3.4.3 The Town may require employees to work overtime if it so deems necessary.

3.5 INCLEMENT WEATHER POLICY

3.5.1 Employees are expected to make every effort to report for work on all days that they are scheduled to work, at the time they are scheduled to work. Employees who do not report for work will have the option of using annual leave (if available) or taking the time off without pay if inclement weather keeps the employee from attending work.

3.5.2. Employees of the highway department are expected to show up for work regardless of the weather conditions.

3.6 VACATIONS

3.6.1 All regular full-time employees will be granted vacation leave on the following basis:

Employment Period	Rate	Accumulation Limit
during 1st 2 yrs employment	1/2 day per month	6 days
3 through 10 years	1 day per month	12 days
11 through 20 years	1-1/4 day per month	15 days
21 years on	1-1/2 day per month	18 days

subject to the limitations enumerated below.

3.6.2. Employees may not accumulate vacation time in excess of that listed above.

CONDITIONS OF EMPLOYMENT

3.6.3. Vacation eligibility for an employee is based upon the anniversary date of his/her employment.

3.6.4. Discharged employees will be paid a lump sum for earned but unused vacation at time of discharge.

3.6.5. Vacation pay will be based upon a normal 8 hour day.

3.6.6. Requests for vacation time by highway employees shall be submitted to the Road Commissioner in advance for his approval.

3.6.7. Absence on account of sickness, injury, or personal matters may, at the request of the employee and at the discretion of the Board of Selectmen, be charged against vacation leave allowances.

3.6.8. Employees may take vacation leave to care for members of their family who are ill.

3.7 SICK LEAVE

3.7.1. Sick leave is granted for the benefit of the employee. It is granted for illness only and may not be used for other purposes.

3.7.2. All regular and probational employees shall be entitled to 1/2 day sick leave with pay for each full calendar month of employment by the town and may be accumulated up to 90 days. Sick leave pay will be based on an 8 hour day.

3.7.3. Employees may be required to provide a certificate from a physician to justify approval of sick leave. Three (3) consecutive work days or more of continuous absence to be compensated under this Article shall require a certificate from a licensed physician stating the necessity of the absence.

3.7.4. If, in the opinion of the Road Commissioner, an employee is abusing this benefit, the time lost may be deducted from the pay of the employee or may result in loss of sick leave benefits or dismissal.

3.7.5. Employees may use sick leave for the purpose of seeing a doctor or a dentist.

3.8 MILITARY LEAVE [not written]

3.9 MATERNITY LEAVE [not written]

CONDITIONS OF EMPLOYMENT

3.10 LEAVES OF ABSENCE

3.10.1 Special leave with pay shall be granted to "regular full-time employees" as follows: Not in excess of three (3) days to any employee whose absence is caused by the death of a member of the immediate family. Immediate family shall include only the spouse, child, mother, father, brother or sister of the employee. Additional leave with pay may be granted by the Selectmen where unusual circumstances arise.

3.11 GRIEVANCES

3.11.1 Any employee may bring a grievance to the attention of the Town Officials as outlined herein. These steps shall be followed in sequence. The requirements for a written presentation and reply in 3.11.3 and 3.11.4 are not intended to preclude the use of a frank and informal conference as a means of arriving at an answer to a grievance.

3.11.2 The grievance shall be first discussed with the immediate supervisor.

3.11.3 The grievance may then be submitted in writing to the department head, who shall give a written reply within one (1) week. The grievance shall describe the occurrence being grieved, with times and dates and pertinent facts, and the remedy sought.

3.11.4 If not satisfactorily resolved by the department head, within five (5) working days of receipt of the response of the department head, the grievance may then be submitted in writing to the Selectmen who shall call a meeting of all parties involved within fourteen (14) days and then give a written reply within one (1) week. The grievance shall indicate the reason for dissatisfaction with the decision of the department head and shall state the redress sought.

3.11.5. The decision of the Selectmen shall be final.

3.12 RECORDS AND REPORTS

3.12.1. Personnel records shall be treated as confidential.

3.12.2. The Board of Selectmen shall prescribe necessary forms and reports for personnel records.

3.12.3. An employee's own personnel records shall be available for review by him/her during normal business hours.

3.12.4. The official records regarding attendance, sick leave, vacation leave and related matters shall be used to settle any disputes arising regarding unused leave(s).

CONDUCT OF EMPLOYEES

4. CONDUCT OF EMPLOYEES

- 4.1 GENERAL
- 4.2. ATTENDANCE AT WORK
- 4.3. ABSENCE FROM WORK
- 4.4. RESIGNATIONS
- 4.5. SAFETY & HEALTH

4. CONDUCT OF EMPLOYEES

4.1 GENERAL. Every employee shall fulfill to the best of his ability the duties and responsibilities of his position. He shall during his hours of duty be subject to such other laws, rules and regulations that pertain thereto, and devote his full time, attention and efforts to his employment.

4.2. ATTENDANCE AT WORK. Employees shall be at their places of work in accordance with department scheduled hours of work. Departments shall keep daily records of hours worked. In the event of necessary absence because of illness or other causes, the employee shall advise his/her supervisor of the reason for the absence within a reasonable time of beginning of the unexpected absence, and in any case, at least before the time that the employee is expected to report to work.

4.3. ABSENCE FROM WORK. An employee of the Town of Pomfret shall not be absent from duty without permission of his department head. Any absence of an employee from duty, including the absence for a single day or part of a day, which is not authorized under the provision of these rules, shall be investigated by the head of his department and the absence shall be reported to the Board of Selectmen for action. In addition, any employee who shall absent himself or herself without authorization shall forfeit all compensation for the period of absence. Any such absence may be cause for disciplinary action.

4.4. RESIGNATIONS

4.4.1 Highway Department employees are required to give at least two (2) weeks notice of their intention to resign in writing. Failure to give timely notice may result in loss of accrued vacation days for as many days as the notice is delinquent.

4.5. SAFETY & HEALTH

4.5.1 The Town of Pomfret will exert every reasonable effort to provide a safe and healthful work place with a maximum degree of sanitation for all employees and will comply with applicable federal, state, and local laws and regulations relating to the safety and health of its employees to the best of its ability.

CONDUCT OF EMPLOYEES

4.5.2 Each supervisor shall, as soon as possible, take prompt and appropriate action to correct any unsafe or unsanitary condition or action which is observed by him.

4.5.3 All employees are responsible for prompt reporting of observed unsafe or unsanitary conditions to his supervisor.

DISCIPLINE & DISCHARGE

- 5. DISCIPLINE & DISCHARGE
 - 5.1. GENERAL POLICY
 - 5.2. EMPLOYEE ACTION RESULTING
IN DISCIPLINE OR DISCHARGE
 - 5.3. ORAL & WRITTEN REPRIMAND
 - 5.4. SUSPENSION WITHOUT PAY
 - 5.5. DISMISSAL.
 - 5.6. APPEAL PROCEDURE

5. DISCIPLINE & DISCHARGE

5.1. GENERAL POLICY The Town of Pomfret exists to provide services to its citizens and therefore has a responsibility to perform these services in the most effective and efficient manner possible. The same standard of performance is required of Town employees. Discipline and/or discharge will result from any action or inaction resulting in anything less than satisfactory performance. All employees will be fairly and consistently subject to these disciplinary and discharge procedures, given the facts of the individual case.

5.2. EMPLOYEE ACTION RESULTING IN DISCIPLINE OR DISCHARGE

5.2.1. The Board of Selectmen may immediately dismiss an employee for inefficiency or incapacity as determined under these rules and regulations (see Performance Evaluation) or any serious infraction of the Town work rules or these rules and regulations including but not limited to the following: insubordination; use of or being under the influence of drugs or alcohol while on duty; falsification of application forms; fighting on duty; misconduct or immoral conduct; conviction of offenses against the law which would affect the employee's performance; actions resulting in serious personal or property damage.

5.2.2. All other violations of Town work rules or these rules and regulations, or employee actions or inactions, including those listed below, shall result in a vocal or written reprimand, suspension without pay, or dismissal: abuse of sick leave; failure to request leave of absence; leaving without permission; unexcused absence; chronic absenteeism; unexcused and/or excessive lateness; carelessness with Town equipment; abuse of Town equipment; negligence; short cuts; horseplay; gambling; sleeping on duty; theft; disregard for safety rules; possession of firearms or dangerous weapons on duty without supervisor's permission; willful damage to Town property; falsifying work records. The foregoing list is not all inclusive and is exemplary only.

5.3. ORAL & WRITTEN REPRIMAND

5.3.1. Whenever, in the supervisor's judgement, employee performance, attitude, work habits or personal conduct falls

DISCIPLINE & DISCHARGE

below a suitable level, the supervisor shall inform the employee promptly and specifically of such lapses and give counsel and assistance.

5.3.2. In other instances an incident may be serious enough to justify more severe disciplinary action, such as a reprimand, suspension, or dismissal in accordance with procedures set out herein.

5.3.3 REPRIMAND. When an oral warning has not resulted in expected improvement, or where a more severe action is warranted, a written reprimand shall be delivered to the employee and a copy of the reprimand shall be placed in the employee's personnel folder.

5.3.4 Oral reprimands shall be reported in a memo from the department head to the Board of Selectmen.

5.4. SUSPENSION WITHOUT PAY. An employee may be suspended without pay for not longer than two (2) weeks in a ny twelve (12) month period by the Board of Selectmen or the Road Commissioner for violation of municipal or department rules and regulations, or other cause. In addition, he or she may be suspended for an indefinite period, without pay, if charged with a criminal offense arising from his or her employment.

5.5. DISMISSAL,

5.5.1 A department head may make a written recommendation to the Board of Selectmen for a longer suspension, a demotion, or a dismissal.

5.5.2 The Board of Selectmen may dismiss an employee. The dismissed employee will be notified of such action during a conference with the Board of Selectmen with a witness present during which the incident necessitating the action and the rule or rules violated will be reviewed.

5.5.3. An employee so dismissed shall be informed in writing of the appeal procedure provided herein.

5.6. APPEAL PROCEDURE

5.6.1 An employee has the right to appeal any action of a supervisor to the department head and of any action of a department head to the Board of Selectmen, and shall have the right to state his/her case to the Board of Selectmen prior to the implementation of any suspension, demotion, or dismissal. Further, the employee has the right to any further appeal as may be provided for in state law.

DISCIPLINE & DISCHARGE

5.6.2 The person dismissed or suspended may, within 5 days of receipt of written notice of dismissal or suspension, request in writing a hearing before the Board of Selectmen.

5.6.3. The Board of Selectmen shall convene in executive session within 1 week of receipt of the employee's written request for a hearing.

5.6.4. At the hearing, the employee, at his or her discretion, may be present, present testimony, be represented by counsel, examine the evidence against him and/or cross-examine witnesses.

5.6.5. The board shall make its decision and inform the appellant within 7 days.

5.6.6. If the decision of the Selectmen is in favor of the employee, he/she shall be restored to his/her position with full pay for the period since dismissal or suspension. The Board of Selectmen can also reduce the disciplinary action to suspension without pay or to reprimand.

5.6.7. If any of the Board of Selectmen shall have been instrumental in bringing charges against any dismissed employee, he shall not sit with the Board at the hearing or participate in the decision. The decision of the Board of Selectmen shall be final.

INSURANCE PROGRAM

- 6. INSURANCE PROGRAM
 - 6.1 HEALTH AND DENTAL
 - 6.2 WORKER'S COMPENSATION
 - 6.3 RETIREMENT

6.1 HEALTH AND DENTAL. The Town of Pomfret offers all permanent, full-time employees the Blue Cross-Blue Shield health and dental insurance plan to which the Town subscribes.

6.1.1. The total cost of this coverage is paid by the Town.

6.1.2. Employees are informed that there is a two month probationary period before coverage begins and that they must submit an application for coverage in accordance with the terms of that health plan.

6.2. WORKER'S COMPENSATION. The Town will provide Workmen's Compensation Insurance in conformity with state statutes.

6.3. RETIREMENT. Employees are required to become members of the State Municipal Employees Retirement System upon completion of three years of service. For rate of contribution, benefits, etc., consult an up-to-date copy of the rules of that system furnished by the State of Vermont.

6.1.1. AMENDED 3/17/99 to read: The total cost of this coverage is paid by the Town. If an employee chooses not to enroll in their plan, the Town will pay an amount equal to 1/2 of the premium for a single person to said employee at the end of the calendar year (prorated as necessary) in lieu of this benefit. (Selectmen's minutes 3/17/99)



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MEMORANDUM

To: Municipal Officials

From: Dominic Cloud, Director, and
Jim Barlow, Senior Staff Attorney
VLCT Municipal Assistance Center

Date: June 28, 2007

RE: Model Personnel Policy

The VLCT Municipal Assistance Center has developed the attached model personnel policy to assist cities and towns that are updating or creating personnel policies.

We have tried to develop policies that reflect the best practices in municipal personnel administration. Nonetheless, each municipality will have to work closely with its department heads and managers to determine which policies are the best fit for its organization.

As always, please call us if you have questions or would like to arrange for some onsite training on these matters.

Sponsor of:

VLCT Health Trust, Inc.

VLCT Municipal Assistance Center

VLCT Property and Casualty
Intermunicipal Fund, Inc.

VLCT Unemployment Insurance
Trust, Inc.

Personnel Policies

Town of _____, Vermont

Section 1: Title and Authority

This policy shall be known as the Town of _____ personnel policy. It has been adopted by the Town of _____ selectboard pursuant to 24 V.S.A. §§ 1121 and 1122.

This personnel policy does not constitute a contract of employment. Employment with the Town of _____ 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.¹ The selectboard 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 *[Town Manager/Selectboard]* or *[his or her/its]* authorized representative.

Section 2: Persons Covered

This personnel policy applies to full-time and part-time employees of the Town of _____. Except as stated herein, 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 contract basis are not covered by this policy.²

For purposes of this policy, a full-time employee is an employee who works at least _____ hours per week on a regular and continuing basis. A part-time employee is an employee who works fewer than _____ hours per week on a regular and continuing basis.

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 _____ is to provide equal opportunity to all employees and applicants without regard to race, color, religion, sex, sexual orientation, age, nationality origin, marital status, disability, veteran's status or any other category under local, state or federal law.

Section 4: Probationary Period

All new employees will be required to complete a six-month probationary period. 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 Town. 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 and other employees.

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: Hours of Service

Regular work hours for persons employed at the Town hall or other town offices shall be __ a.m. to __ p.m., Monday through Friday, with _____ allowed for lunch.

Regular work hours for the road crew shall be __ a.m. to __ p.m., Monday through Friday, with _____ allowed for lunch, unless the road foreman and the *[Town Manager/Selectboard]* agree otherwise.

Regular work hours may be changed and employees may be expected to work additional hours that may exceed forty hours in a given week, as circumstances require.

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, but no later than __ a.m.

Section 7: Gratuities and Gifts

Employees may not directly or indirectly ask, demand, exact, solicit, accept or receive a 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.

Section 8: Outside Employment

The primary occupation of all full-time employees shall be to 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.

Prior to accepting any outside employment, employees will disclose their intent to _____ in writing and obtain prior clearance from the Town that such employment does not constitute a conflict of interest.

A conflict of interest means a direct or indirect personal or financial interest of an employee, his or her close relative, household member, business associate, employer or employee. 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.

Section 9: 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 official, 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 these activities do not interfere with the individual's ability to effectively perform his or her duties and take place or are expressed during non-working hours. Nor is this personnel policy to be construed from prohibiting, restraining or in any manner limiting an individual's right to vote with complete freedom in any election.

Section 10: 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.

Section 11: Alcohol and Drug Use

Reporting to work or working under the influence of alcohol or drugs is strictly prohibited, unless the drug is prescribed and used in the manner prescribed by a duly licensed physician or dentist.

Section 12: Tobacco Use

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 in all publicly owned buildings, offices and enclosed areas, and in all Town vehicles.³

Section 13: Performance Evaluations

Employees may be subject to job performance evaluations at such times and in such manner as the *[Town Manager/Selectboard]* or *[his/her or its]* authorized representative deems reasonable. The results of such evaluations will be submitted to the employee, the employee's supervisor, the *[Town Manager/Selectboard]* and will become a part of the employee's personnel file.

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 may inspect or copy his or her personnel file at a mutually agreeable time during regular office hours. The Town reserves the right to have its representative present at the time its files are examined or copied.

Section 15: Use of Town Equipment

Except as provided in Section 23, the use of Town equipment or property for personal use is strictly prohibited.

Section 16: Use of Town Computer System⁴

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 regarding anything created, sent or received on the Town computer system. The Town may monitor any and all computer transactions, communications and transmissions to ensure compliance with this policy and to evaluate 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 their supervisor. 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 operating 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.

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 web sites 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.

Email messages that are intended to be temporary, non-substantive communications may be routinely discarded. However employees must recognize that emails sent, received, or stored on the Town computer system are subject to Vermont's Public Records Law and may be covered by the State of Vermont's retention schedule for municipal records.⁵

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

Section 17: Eligibility for Benefits⁶

The town offers the following group [*life, health, dental and short term/long term disability*] insurance programs for the benefit of its eligible full and part time employees.

- _____
- _____
- _____

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

The town reserves the right to change insurance carriers, or to add, delete or amend insurance benefit programs in its sole discretion. The town also reserves the right to change the amount or percentage of its contribution to the cost of any group health insurance program. Employees will be provided with advance notice of any change in the contribution rate.

Section 18: Holiday Leave⁷

Full- and part-time employees will receive the following paid holiday leave:

- New Year's Day (January 1)
- Martin Luther King Jr.'s Birthday (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)
- Columbus Day (second Monday in October)
- Veterans' Day (November 11)
- Thanksgiving Day (4th Thursday in November)
- Christmas Day (December 25)

Employees will receive holiday leave pay at the employee's regular rate of pay. Part-time employees will receive prorated holiday leave pay based on the number of hours the employee is regularly scheduled to work.

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

A non-exempt employee who is required to work on a holiday will be compensated at the rate of one and one-half times the employee's regular rate of pay.

If a non-exempt employee is not required to work on a holiday, hours paid for the holiday [*will/will not*] be counted as hours worked when determining overtime compensation.

Holidays that fall during an employee's vacation leave will not be charged as vacation leave.

Section 19: Vacation Leave

Full- and part-time employees will accrue vacation at the following annual rates:

Years of <u>Service</u>	Annual <u>Accrual Rate</u>
1 st year	__ days
2 nd through 9 th year	__ days
10 th year through 14 th year	__ days
15 th through 19 th year	__ days
20 th and subsequent years	__ days

Full-time employees will receive vacation leave pay at the employee's regular rate of pay. Part-time employees will receive prorated vacation leave pay based on the number of hours the employee is regularly scheduled to work in a week.

Employees are strongly encouraged to take an annual vacation. If an employee does not use all of the employee's vacation leave in a year, the employee may carry unused vacation leave forward to the next year up to a maximum of ___ vacation days. If an employee has unused vacation leave exceeding this maximum amount, the employee will be compensated for this excess unused leave at a rate equal to the employee's regular rate of pay on the last day of the year of employment in which vacation leave was received.

An employee who resigns from employment with the Town will be compensated for unused vacation leave, provided that the employee gives at least two weeks written notice of the resignation.

Section 20: Sick Leave

Employees will receive ___ paid sick leave days per year. An employee may use sick leave for an illness or injury that prevents the employee from performing the employee's job duties. An employee may also use sick leave to attend the following appointments that cannot be held outside normal working hours:

- A medical appointment
- An appointment eligible for short-term family leave under the provisions of the Vermont Parental and Family Leave Act (21 V.S.A. § 472a).
- A funeral not eligible under Section 10.
- A meeting with the employee's personal attorney.
- An appointment for the closing, purchase, sale, or refinancing of a primary residence.
- Any other appointments authorized in advance by the employee's supervisor.

Full-time employees will receive sick leave pay at the employee's regular rate of pay. Part-time employees will receive prorated sick leave pay based on the number of hours the employee is regularly scheduled to work in a week.

If an employee does not use all of the employee's sick leave in a year, the employee may carry a maximum of ___ sick leave days forward to the next year. If an employee has unused sick leave exceeding ___ days, the employee will not be compensated for that excess unused leave.

Upon separation from employment, an employee will not be compensated for unused sick leave.

Section 21: Bereavement Leave

Employees will receive ___ paid bereavement leave days per year. Employees may use bereavement leave for the death of a close relative or any other relative if the relative was living in the same household as the employee immediately preceding his or her death.

Pay for bereavement leave will be at the employee's regular rate of pay. Part-time employees will receive prorated bereavement leave pay based on the number of hours the employee is regularly scheduled to work in a week.

If an employee does not use all of the employee's bereavement leave in a year, the employee may not carry the unused leave forward to the next year. Upon separation from employment, an employee will not be compensated for unused bereavement leave.

Section 22: Parental and Family Leave

Eligible employees may receive leave as described in the Family and Medical Leave Act (FMLA) and the Vermont Parental and Family Leave Act (PFLA). These federal and state laws 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 PFLA. Where an employee's leave request is covered by the PFLA 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 PFLA 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 PFLA and/or FMLA leave, the Town will use a rolling twelve-month period measured backward from the date an employee uses such leave.

Section 23: Short Term Family Leave⁸

In accordance with the Vermont Short Term Family Leave Law, 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, step-child, foster child, or ward;
- To attend or accompany the employee's child or other family member to routine 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 family member.

The Town may require that leave be taken in a minimum of two-hour segments. At the option of the employee, accrued paid leave may be used. An employee shall make a reasonable attempt to schedule appointments for which leave may be taken 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.

Section 24: Leave of Absence Without Pay

All 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, the employee may, at the Town's sole discretion, continue the employee's group health plan coverage by paying the required premium in accordance the payment schedule established by the Town. Other employee benefits (e.g. sick leave, vacation, seniority, etc.) will not accrue during the unpaid leave period.

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 paid leave accrued prior to the commencement of the leave may be used.

Section 26: Jury Leave

The Town [*will/will not*] compensate employees for their service as jurors or witnesses. In accordance with 24 V.S.A. § 499, employees will otherwise be considered in the service of the Town for purposes of determining seniority, benefits, credit towards vacations, sick leave, 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

In accordance with the Fair Labor Standards Act, the Town compensates all nonexempt employees at the rate of one and one-half hours for each hour actually worked in excess of forty hours in any workweek. Employees employed in executive, administrative or professional capacities as defined by the FLSA are exempt from this requirement.^{9 10}

In lieu of overtime pay, nonexempt employees may accrue compensatory time off ("comp time") subject to the following conditions:

- Comp time is earned at a rate of one and one half hours for each hour worked in excess of forty hours in any workweek.

- An employee may accrue a maximum of forty hours of comp time (40 hours of comp time represents 26.67 hours of actual overtime work). An employee who has accrued 40 hours of comp time will be paid overtime compensation for additional overtime hours of work.
- An employee may, at the Town's discretion, be paid in cash in lieu of compensatory time off.
- An employee receiving payment for accrued comp time will be paid at the regular rate of pay earned by the employee at the time the employee receives such payment.
- Upon termination from employment, an employee will be paid for unused comp time at a rate not less than the average regular rate of pay received by the employee during the last three years of employment or the employee's final regular rate of pay, which ever is higher.

An employee who has accrued comp time and requested use of comp time will be permitted to use such time off within a reasonable period after making the request, if such use does not unduly disrupt the Town's operations. Requests for use of comp time must be submitted to the employee's supervisor, who will have sole discretion to grant or deny the request. Requests for use of comp time will not unreasonably be withheld.

Section 28: Employment Discrimination

Vermont and federal law prohibit employment discrimination or retaliation based on race, color, religion, sex, or national origin, sex or age, 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.

Employees are encouraged to bring any complaints alleging unlawful discrimination to the attention of the employee's *[Supervisor/Town Manager]* or *[his/her]* designee who will arrange a meeting to discuss the matter. The meeting will take place as soon as reasonably possible, but in no case later than seven calendar days from receipt of notification. If the *[Supervisor/Town Manager]* or *[his/her]* designee is unable to resolve the matter during this meeting, the aggrieved party may submit to the *[Supervisor/Town Manager]* or *[his/her]* designee a written, signed complaint within seven additional calendar days. The *[Supervisor/Town Manager]* or *[his/her]* designee will then have an additional fifteen calendar in which to conduct an investigation and to issue a report with recommendations to the selectboard. The selectboard will, within ten calendar days, notify the aggrieved part of its decision.

Section 29: 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. All employees are required to read this policy before signing the employee acknowledgement form.

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 one of the above definitions:

- 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.

Any employee who wishes to report sexual harassment should:

List the name(s) and contact information for those person(s) with whom internal complaints may be filed.

Once the Town receives a complaint of sexual harassment, it will take all necessary steps to ensure that the matter is promptly investigated and addressed. If sexual harassment is found to have occurred, the Town will take appropriate action, ranging from a verbal warning up to and including dismissal.

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

Vermont Attorney General's Office
Civil Rights Unit
109 State Street
Montpelier, VT 05609-1001
Tel: (802) 828-3171 (voice/TODD)

Equal Employment Opportunity Commission
1 Congress Street
Boston, MA 02114
Tel: (617) 565-3200 (voice), (617) 565-3204 (TODD).

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 30: Employee Discipline

The Town of _____ 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.

The progressive discipline process does not apply to elected officers and their statutory assistants. However, an elected officer may choose to follow the requirements of this policy for discipline and termination of his or her statutory assistants. A statutory assistant means an individual appointed to his or her position by an elected officer of the Town having express statutory authority to appoint an assistant. Statutory assistants include the assistant clerk and the assistant treasurer.

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, reorganization or reclassification of positions resulting in the elimination of a position or for other related reasons.

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

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; 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.

- Refusing to do assigned work or failing to carry out the reasonable assignments of a *[Supervisor/Town Manager/ Selectboard]*.
- 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, or willfully neglecting Town property, funds, materials, equipment or 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.
- Willful violation of Town rules or policies.

Section 31: Employee Termination Process¹¹

The Town of _____ 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.

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, 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 a written notice. The notice will contain a brief statement of the reasons termination is being considered and the date, time and place of a pre-termination meeting with the employee's supervisor.

At the pre-termination meeting, the employee will be afforded an opportunity to present the employee's response to the reasons for termination. If the employee declines to attend the pre-termination meeting, the employee may submit written response to the pre-termination notice not later than the scheduled date of the meeting.

Within seven days of the date of the meeting, the supervisor will provide the employee with a written notice informing the employee whether he/she has been terminated. If the employee has been terminated, the notice will provide the general reasons therefore and will also inform the employee of the opportunity to request a post-termination hearing before the selectboard by giving written notice of such request to the supervisor within seven days. The employee will be informed that the employee's failure to make a timely request for a post-termination hearing will result in such hearing being waived.

If a request for a post-termination hearing is made, the selectboard will provide the employee with a notice informing the employee of the date, time, and place of the post-termination hearing

before the selectboard. The notice will inform the employee of his or her right to be represented by counsel, to present and cross-examine witnesses and to offer supporting documents and evidence. The notice of will also inform the employee of his or her right to have the hearing conducted in executive session in accordance with 1 V.S.A. § 313.

At the post-termination hearing, the employee will be afforded the opportunity to address the basis for termination by hearing and examining the evidence presented against the employee, cross-examining witnesses and presenting evidence on his/her behalf. The selectboard will make such determinations as may be necessary in the event of evidentiary objections or disputes. When the hearing is adjourned, the Selectboard, under the authority granted by 1 V.S.A. § 313(e), will consider the evidence presented in the hearing in deliberative session.

The Selectboard will render a written decision within fourteen days after close of the hearing, unless otherwise agreed upon by the parties.

Section 32: 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 effect 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.

ADOPTED this ____ day of _____, 20 ____.

SIGNATURES of SELECTBOARD:

Addendum A: Personnel Acknowledgement

I, _____, acknowledge that:

- A. I received a copy of the Town's personnel policy on _____;
- B. I have been given an opportunity to ask questions about said policy and I have been provided with satisfactory information in response to my questions;
- 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 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;
- F. I acknowledge that I understand the Town's personnel policy and I agree that I will comply with all of its provisions.

Employee's Signature

Date

**VLCT MODEL PERSONNEL POLICY
EDITORIAL NOTES**

¹ **At-Will Employment**

Under Vermont law, the employment relationship is presumed to be “at-will,” which means that it is terminable at any time, for any non-discriminatory reason or for no reason at all. However, the at-will presumption can be overcome, for example, by the existence of a statute, charter, collective bargaining agreement or personnel manual or policy inconsistent with an at-will relationship. If a contract or policy specifies that an employee may only be fired for “good cause” or specifies grounds for which the employee can be fired, then termination can only take place if good cause or the appropriate grounds are found after due process.

With respect to personnel policies, they may be used as evidence that the employment contract requires good cause for termination. Moreover, personnel policies that contain progressive disciplinary policies can be sufficient to require an employer to terminate an employee only for cause and policies which expressly or impliedly include a promise of specific treatment in specific circumstances may also create an enforceable contract. If an employer’s personnel policies contain any reference to just cause for dismissal or the types of conduct that would warrant dismissal, it is possible that the at-will status has been altered. This may be the case even if the employer’s manual contains disclaimer provisions pertaining to preservation of the at-will status of its employees. Courts will not allow employers to have it both ways.

In other words, if there are disciplinary procedures and specific conduct/discipline provisions in the policies, the mere inclusion of boilerplate provisions that the employee relationship is at-will will not automatically preserve the at-will status. Courts will look to the manual in its entirety, together with the parties’ reasonable expectations and norms of conduct in the workplace to determine at will status. If the employer’s personnel policies are definitive in form and demonstrate intent on the employer’s part to bind itself, there is a strong argument that the at-will status has been modified.

The issue of whether the adoption of a personnel policy is advisable is often confusing for municipalities. This is because there is a tension between the need to clearly establish work rules and policies concerning hiring, promotion, and discipline in order to have a maximally productive and well managed work force, and the concern that the creation of such detailed standards will destroy the at-will employment relationship that allows a municipality to discharge an employee without process, and for any or no cause.

While each municipality must strike this balance for itself, there may arguably be a lower risk of exposure to wrongful discharge claims where employers have adopted and followed clear and detailed personnel policies, as opposed to those employers that have no formal employment procedures or policies. That is, with no written rules or procedures, an employee who is discharged may be more likely to feel as though he was given arbitrary or discriminatory treatment.

To this end, this model personnel policy provides progressive discipline and termination procedures. Given the high probability that a municipal employee’s at-will employment status has been modified by statute, charter, collective bargaining agreement, practice, personnel manuals or town policies, VLCT recommends affording all non-probationary employees the termination process as outlined in Section 32. Nevertheless, Section 1 expressly declares employment with a Town to be at-will as it may provide some protection from wrongful discharge liability.

For those employers who seek to preserve the at-will status for employees who are not otherwise protected by statute, charter, collective bargaining agreement or other contract, their personnel policies

must be carefully drafted (with the assistance of counsel) to avoid any alteration of the at-will status.

² Persons Covered

Unless provided otherwise in a municipal charter, the municipal clerk and municipal treasurer are independent officials answerable only to the electorate. By statute, the municipal clerk and treasurer may appoint assistants. These statutory assistants serve at the pleasure of the municipal clerk and treasurer and may hold office for the duration of the clerk or treasurer's term or until the clerk or treasurer revokes such appointment.

These statutory assistants report to the officer appointing them and not to the selectboard. Accordingly, though they are compensated by the town for their work, statutory assistants would not be employees for purpose of this policy.

While not required to do so, some clerks and some treasurers may wish to be included in the town's personnel policies or may wish to have their assistants included. In such instances VLCT recommends a written agreement between the clerk or treasurer and selectboard outlining which provisions of the personnel policy apply to them and/or their assistants.

³ Tobacco Use

With respect to municipalities, the state law prohibits the possession of lighted tobacco products in "the common areas of all enclosed indoor places of public access and publicly owned buildings and offices." 18 V.S.A. § 1742. Place of public access includes "any place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which the general public has access or which the general public uses, including buildings, offices, means of transportation, common carrier waiting rooms, arcades, restaurants, bars and cabarets, retail stores, grocery stores, libraries, theaters, concert halls, auditoriums, arenas, barber shops, hair salons, laundromats, shopping malls, museums, art galleries, sports and fitness facilities, planetariums, historical sites, common areas of nursing homes, hospitals, resorts, hotels and motels, including the lobbies, hallways, elevators, restaurants, restrooms, cafeterias, and buildings or facilities owned or operated by a social, fraternal, or religious club." 18 V.S.A. § 1741(2).

The prohibition against any tobacco use (lighted or unlighted) in any "publicly owned buildings, offices and enclosed areas, *and in all Town vehicles*" is broader than state law. Nonetheless, VLCT recommends a prohibition against all tobacco use and a prohibition against use in Town vehicles" in order to prevent the effects of second hand smoke and to project a professional image in the workplace.

⁴ Internet and Electronic Mail Policy

This policy, while not required by statute, is important in informing employees what constitutes acceptable and prohibited behavior when using the municipal computer system, resolving reoccurring issues concerning retention of computer passwords, and eliminating any expectation of privacy employees may have if a municipality intends to monitor electronic communications.

⁵ Retention Schedule

Copies of the State of Vermont Retention Timetable for Municipal Records are available from the Department of Buildings and General Services, (802) 828-3314.

⁶ Benefits

Most municipalities are required to participate in the following benefits programs: workers' compensation, unemployment compensation, and the Vermont Municipal Retirement System (VMERS). These programs are available to both employees and elected officers who meet the program requirements.

Beyond these required benefits, it is up to a municipality's legislative body to determine which, if any benefits to provide to its employees and under what conditions. Benefits commonly offered to municipal employees include health insurance, life insurance, and long and short-term disability. Boards considering adopting this model policy will need to draft language for this section that specifies the benefits that are offered.

Most towns choose to extend employee benefits equally to both employees and elected officers who meet the eligibility requirements.

⁷ **Holidays**

The holidays listed are those legal holidays observed by all state departments, agencies and offices pursuant to 1 V.S.A. § 371. Municipalities are not obligated to observe these holidays and its legislative body may modify this list as it deems appropriate.

⁸ **Short-term Family Leave**

The benefits conferred by this policy track State law and apply to those same Towns covered under the Vermont Parental and Family Leave Act. 21 V.S.A. § 472a.

⁹ **Exempt Employees**

The Fair Labor Standards Act (FLSA) is a federal law establishing employment standards for hours worked, overtime, wages, child labor and prohibiting sex-based discrimination. The FLSA does not apply to all municipal employees. Those exempted from the Act include volunteers, independent contractors, elected officials and their personal staff members and appointed officials in policy-making positions, certain recreational employees, certain trainees, and certain "white collar" positions that meet the following criteria:

- The employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$455 per week;
- The employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
- The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
- The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

¹⁰ **Overtime**

Under the Fair Labor Standards Act (FLSA), municipalities have the option of providing employees with paid time off in lieu of monetary overtime compensation. Compensatory time must be earned at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by the FLSA.

Under the FLSA, employees engaged in public safety, emergency response or seasonal activities cannot accrue compensatory time in excess of 480 hours. All other nonexempt employees cannot accrue more than 240 hours of compensatory time for hours worked. Accrued overtime hours in excess of 480 and 240 must be paid at one and one-half times the non-exempt employee's regular rate of pay at that time, respectively.

The model policy sets a much lower limit for accrued compensatory time (forty hours). Municipalities may set the limit higher, but may not exceed the statutory limits.

¹¹ **Employee Termination Process**

By statute, many town officials (town manager, zoning administrator, and appointed road commissioner to name a few) can only be removed for just cause. Prior to finding cause, these officers must be afforded the due process protections described in this section. As described above, VLCT recommends affording *all* employees the due process protections described in this section as we believe, on the balance, that there is a lower risk of exposure to wrongful discharge claims where employers have adopted and followed clear and detailed personnel policies, including policies for progressive discipline and termination.

Nonetheless, adopting progressive discipline and termination processes is not without some legal risk. Municipalities that adopt such processes as part of their employment policies must follow them scrupulously. VLCT recommends discussing the issue of termination and progressive processes with the municipal attorney prior to the adoption of these model policies.