

**Personnel Policy of Mount Washington  
Amended and Restated on October 15, 2013**

**I. General Provisions**

Authority: This policy was adopted by the Select Board.

**A. Purpose**

1. To establish, in writing, policies and procedures governing employment in town.
2. To insure their consistent application to all employees.
3. To facilitate uniform and efficient administration of said policies and procedures.

**B. Application**

These regulations do not apply to elected officials. Except as required by law, no retirement, insurance, or pay for not working benefit shall be paid to employees whose job requires them to work less than 20 hours each week on a regular basis or to seasonal employees. Nothing in these regulations shall be construed to limit any rights of employees pursuant to Chapter 150E of the Massachusetts General Laws.

**C. Administration**

The Select Board shall administer these regulations.

**D. Rules of Interpretation**

These regulations are intended to be in accordance with all applicable State and Federal Laws. In the event of a conflict, the applicable State and Federal Law apply.

This policy statement supersedes all previous policy. The Select Board should review this policy annually. Interpretation of any policy matter will be made by the Select Board and will be final.

**E. Severability**

Should any court or agency of competent jurisdiction declare this policy or portion thereof invalid or unenforceable, the rest of these regulations shall remain in full force and effect.

**F. Amendments**

Proposals to change and/or amend these regulations shall be submitted to the Select Board in writing. A majority of the full Board shall ratify or disapprove the proposed amendment. The amendment shall become effective within seven days of publicly posted notice.

## G. Employment at Will

All town employees serve at the will of the Select Board. Except as may be limited by federal or state laws or by written individual employment contract signed by the employee and the Select Board after approval by the Select Board, an employee may have their employment terminated at any time by vote of the Select Board with or without notice or cause. No member of the Select Board or any agency of the Town has any authority to promise anything contrary to the preceding sentence.

## II. Definitions

Full-time Employee – An employee hired to work a minimum of 40 hours per week on a regular basis.

Permanent Part-Time Employee – An employee hired to work less than 40 hours but at least 20 hours on a regular basis.

Part-time Employee – An employee who is not hired on a regular basis or works less than 20 hours per week on a regular basis.

Regular basis is defined as expected to work every week of the year subject to vacation and sick leave.

## III. Policies

### A. Equal Opportunity/Affirmative Action

The Town does not intend to discriminate against any employee or employment applicant in any way contrary to applicable law on the basis of race, color, religious creed, national origin, sex, sexual orientation, genetic information, ancestry, age or handicap.

### B. Policy Against Sexual Harassment

The Town promotes a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of sexual harassment complaint is similarly unlawful and will not be tolerated.

See Appendix A of this personnel policy for complete sexual harassment policy including definitions, complaints, investigation, disciplinary action and state and federal remedies

### C. Position Advertisement

Any open, paid position in the Town of Mount Washington shall first be advertised in local periodicals to the extent determined by the Select Board.

### D. Application Requirements

Each candidate shall present a resume of his/her work experience and a formal job application.

#### E. Application Review Procedure

- a. If applicable, the department supervisor shall do the initial screening and shall review said applications.
- b. The department supervisor's recommendation list shall be sent to the Select Board who may schedule and conduct screening interviews in closed session to the extent consistent with the Open Meeting law. If desired, public interview will be conducted by the Select Board.
- c. In case an urgent, unforeseen vacancy occurs, a department supervisor is authorized to hire, on a temporary basis, an employee to fill that vacant position without a formal vote by the Select Board. Any person hired under this emergency provision shall have no expectations that s/he will be appointed by the Select Board.
- d. Applicants' references will be contacted as part of the selection process.
- e. Any required examinations may be written, oral, practical, physical or any combination thereof and shall be relevant to the position.
- f. All persons hired for a position that requires a Commercial Drivers License may be given a pre-employment alcohol and drug test. All employees holding positions that require a CDL may be randomly tested for alcohol and drug use.

#### F. Probationary Period

All permanent employees hired after the date of this Policy shall be considered provisional employees for a period of three months. After a satisfactory three-month review by the Select Board, said new employees shall be accorded the same benefits as those provided to the town's regular employees, which benefits shall be effective as of the date of hire. Insurance benefits shall commence upon employment.

#### G. Hiring and Salary

The Select Board will hire, set starting salaries and determine employment transfers, promotions or demotions of all individuals.

Individuals selected for employment will receive written notification of a starting date and time and shall report to the Town Treasurer, who will explain all of the benefits and options the employee is entitled to and shall assist the employee with the appropriate forms pertaining to income deduction, life insurance, group health insurance, retirement and others as applicable.

The Supervisor, if appropriate, shall be responsible for on-site training and orientation regarding specific rules, regulations, policies and procedures of the employee's assigned department.

## H. Compensation of Employees beyond starting salary

The Select Board shall set compensation subject to appropriation at Town Meeting. The Select Board may reassess compensation of an employee at any time.

1. Vacation; Hours of vacation based on years of service shall be set by the Select Board and unless as otherwise agreed upon are as follows:

<u>Years</u>	<u>Days Vacation</u>
1-4	10
5-9	15
10 and after	20

2. Accumulation; Credit. After the probationary period, an employee shall be credited with all of the vacation time due (accrued) for that fiscal year (or portion thereof) at the rate set by the Select Board. For example, an employee hired on July 1 2012 with a 3 month probationary period will have credit for 10 vacation days through June 30 2013.

### 3. Scheduling and Use

Paid vacation must be taken in the fiscal year in which it was credited unless by special arrangement a particular employee requests and receives written approval prior to the end of the fiscal year from the Select Board to carry a specified amount of vacation days forward to the next fiscal year. In no case may more than ten days of leave be forwarded beyond June 30<sup>th</sup> of the fiscal year and must be taken in that fiscal year.

Should circumstances arise which prevent an employee from using paid vacation leave, the employee may petition the Select Board for payment in lieu of such leave. Said payment may be for a period of five days or less, and shall be subject to fund availability. The Select Board's decision regarding such requests shall be final. Ordinarily, an employee shall not receive vacation pay while being paid for work during the same period.

Vacation pay will be made on the last payday before vacation time is taken. If a holiday falls during an employee's vacation time, the employee does not need to use vacation time to receive pay for that day off.

All requests for vacation time off for more than two consecutive days must be made in writing to the Select Board at least 14 days prior to requested vacation dates. Notice must first be given to and approved by the employee's Supervisor. Vacation days not taken due to work schedule will not be lost to the employee.

### 4. Paid Holidays

Full-time and permanent part-time employees shall be paid for the following holidays: New Year's Day, Martin Luther King, Jr. Day, President's Day, Patriot's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

Whenever a holiday falls on a Sunday, the following Monday shall be considered a holiday. Whenever a holiday falls on a Saturday, the previous Friday shall be considered a holiday.

## 5. Overtime

Overtime will be used only after other alternatives have been explored, such as rescheduling priorities, reassigning work, and re-balancing workloads. Overtime will be paid time and a half for each hour in which an employee is required by the employer to work over 8 hours in a workday (as opposed to the employee adjusting his/her hours for convenience or to make up time) and 40 hours in a work week (Monday-Sunday). Double time is paid on Sundays and holidays. Approved paid vacation time and Federal and State holiday time are considered hours worked when calculating overtime. Sick leave and personal days do not count toward the calculation of a forty hour work week, unless an exception is approved in writing by the Select Board.

If an employee must report to work for special overtime hours, he/she will receive a minimum of three hours overtime pay regardless of number of hours worked.

### I. Leave

#### 1. Personal Leave:

Full-time and permanent part-time employees may accrue up to 3 personal days per fiscal year (or prorata amount for less than one year) providing they do not interfere with day to day operations. Eligibility for this leave will begin after three months of employment, but shall be retroactive in prorating same. These days are not cumulative.

#### 2. Funeral Leave

Full-time and permanent part-time employees who have worked at least a year shall be eligible for:

- a. Five funeral days, not to be charged to personal or sick leave days, to apply to death of spouse, child, parents, guardian, grandchildren or siblings for the purpose of attending the funeral and related mourning.
- b. Extenuating circumstances shall be considered by the Select Board in granting additional funeral days throughout the year with or without pay.

All funeral days must be reported to the Select Board on a biweekly basis. These days are not cumulative.

#### 3. Paid Sick Leave

In the event of bona fide personal and non-service connected sickness or injury for which no compensation is received from Workmen's Compensation, full-time and permanent part-time employees accrue sick leave of 8 days per fiscal year or prorata amount. Sick leave may be carried forward each fiscal year, but the total accumulation of sick leave allowed is limited to 54 days. After three days absent, a doctor's certification may be required. Eligibility for sick leave will begin after three months of employment, but shall be retroactive in proration.

Upon ending employment with less than ten years of service, an employee in good health, will receive 10% of accumulated sick leave days to be paid in cash based on the salary prevailing at the time.

Upon ending employment with 10 years or more service, an employee in good health, will receive 20% of accumulated sick leave to be paid in cash based on the salary prevailing at the time.

An employee who leaves employment because of illness, certified by a physician, will be eligible to be paid at the last prevailing wage for as many of the accumulated sick leave days as are available to him or her.

All such payments upon termination of employment are subject to the approval of the necessary funds by a Town Meeting.

#### 4. Leave of Absence without Pay

Leave of absence without pay may be granted at the discretion of the Select Board up to a maximum of 14 days per fiscal year. In the case of pressing need because of personal illness or illness in the family, the Select Board may at its discretion grant up to 12 weeks such leave.

5. Eligible employees will be afforded maternity leave without pay under the Massachusetts Maternity Leave Act ("MMLA"), M.G.L. c. 149, §105D or the Family Medical Leave Act.

#### 6. Jury Duty

Employee who has been called for trial or grand jury service shall be paid regular wages for the first three days, or part thereof, of juror service.

#### 7. Doctor's Certifications

1. Any person returning to work after an absence, due to illness, in excess of five (5) consecutive work days or more than five (5) days total in any one fiscal year may be required by his or her supervisor, or by the Select Board, to provide a written statement from a doctor that the employee is capable of performing their assigned duties

2. The employee's supervisor or Select Board may require a doctor's certification at any time if the supervisor or the Select Board have a reasonable basis for questioning whether an employee is capable of performing their assigned duties.

### **IV. Insurance Benefits**

Employees regularly working a total of twenty hours or more per week are eligible for insurance benefits, then offered by the Town, of which the Town pays 50% of the monthly premium.

Workers Compensation is paid 100% by the Town for all employees.

### **V. Retirement Plan**

Employees working regularly a weekly total of twenty hours automatically participate in the Berkshire County Retirement Plan. Nine percent (the rate is subject to change) of an employee's weekly base pay, not including overtime, is deducted and credited to the retirement fund. The amount deducted is put on an employee's account and earns interest.

All employees, including compensated elected officials, may request membership in the Berkshire County Retirement System.

Certain part-time, seasonal, or temporary employees are required to participate in the Commonwealth of Massachusetts Deferred Compensation Plan ("OBRA Plan") as an alternative to the Old Age, Survivors and Disability Income portion of the Federal Insurance Contributions Act. The OBRA Plan is permitted by the Federal Omnibus Budget Reconciliation Act of 1990. An OBRA Plan employee must contribute 7.5% of the employee's gross compensation per pay period to the plan. These mandatory contributions must be invested in the income fund. An employee may also make additional voluntary contributions to the plan. Voluntary contributions may be invested in any of the Plan's available investment options.

## **VI. Conduct and Discipline**

### **1. Outside Employment**

An employee may engage in outside employment unless in the judgement of the Select Board such employment would interfere with the proper and effective performance of the duties of his/her position, or might result in a conflict of interest. Employees are responsible for making their own disclosures and otherwise complying with the State Conflict of Interest Law, G.L. c. 268A regarding outside employment.

### **2. Privileged Information**

Knowledge of plans and programs of significant public interest must not be used by employees for their own financial gain, or to provide others information which could be used for financial gain. Employees who have an outside financial interest that could be affected by town plans or activities must report that prospect to their superiors. Violation of privileged information for financial gain can be the cause for discharge of the employee as determined by the Select Board.

### **3. Town Property**

Employees shall not use or appropriate town property, nor use or allow the use of, town property of any kind for other than official or otherwise authorized activities. The Select Board and/or its agents reserve the right with or without notice to access any and all town property used by an employee including information in or on said property. This right of access applies, but is not limited to, town owned computers, telephone answering devices or services, desks, cupboards, lockers (whether locked or not). Employees should therefore have no expectation of privacy in anything they or anyone else puts on or in town property.

Violations may result in oral reprimand, written reprimand, suspension, probation or discharge. The severity of the disciplinary action shall be in accordance with the severity of the situation as determined by the Select Board.

#### 4. Falsification of Time Sheets, Time Cards or Other Documentation

The falsification of any Time Sheets, Time Cards or Other Documentation is strictly prohibited. Violations will result in immediate discharge.

### **VII. Safety**

An employee who has been provided town equipment such as tools, vehicles, materials, etc. is expected to exercise reasonable care in the use and preservation of such equipment and to observe all safety precautions while carrying out assigned work.

Violations may result in oral reprimand, written reprimand, suspension, probation or discharge. The severity of the disciplinary action shall be in accordance with the severity of the situation as determined by the Select Board.

### **VIII. Disciplinary Actions for Other Reasons**

Such actions may be imposed upon an employee for failure to fulfill his/her responsibilities as an employee, including, but not limited to, any of the following:

1. Incompetence or inefficiency in the specific or general performance of his/her assigned duties.
2. Use of fraud in securing the position
3. Insubordination or disobedience in carrying out reasonable directions given by a proper supervisor.
4. Consumption of alcoholic beverages while on duty.
5. Use and/or possession of illegal narcotics while on duty.
6. Absent without leave.
7. Abuse of sick leave.
8. Conviction of felony.
9. Possession of firearms when the use of firearms is not included in job description.

### **IX. Procedures for Addressing Employee Concerns**

#### A. General

All employees shall have a right to have concerns regarding their employment heard in a fair, equitable and timely manner. An employee, or his/her legal representative, who brings up a concern shall be entitled to a prompt response. When a concern is found justified, the employee can expect action to be taken to resolve the problem. The employee shall not be penalized in any way for expressing a concern in an appropriate manner, regardless of the outcome.

It is understood that the following issues are subjects of concern and are subject to grievance procedures

1. Issues related directly and primarily with day to day working life of the employee.



2. Issues related to the employee's relationship with his/her supervisor his/her fellow employees
3. Issues related to a general increase or decrease in the level of wage rates and salaries.

**B. Procedure**

1. Any employee with a concern will discuss it with their supervisor. They are encouraged to work together to resolve the problem at this level.
2. If after fourteen days the employee is not satisfied with the resolution he/she may appeal to the Select Board, who may request the concern in writing.

**X. Disciplinary Procedures**

- A. An employee's supervisor, the Chair of the Select Board, or in the Chair's absence, any member of the Select Board (suspending official) shall have the authority to suspend from employment any employee with or without pay for a period of time not to exceed 14 calendar days when in said suspending official's judgment an employee may have committed an infraction serious enough to warrant such suspension.
- B. The suspending official shall not issue a suspension until he/she has told or otherwise advised the employee of the reasons for the intended suspension, and given the employee an opportunity to respond at least orally.
- C. A suspended employee may appeal a suspension pursuant to Sections A & B above to the Select Board.
- D. If the Select Board contemplates (or has) suspended or discharged an employee, and/or in hearing any Section C above appeal of a suspension, the Select Board shall be guided by the following procedure:  
The employee will be advised in writing of the reasons for the discharge or suspension, of his right to a hearing before the Select Board and of his right to be represented at the hearing by counsel. At the hearing the Select Board will advise the employee of evidence in support of the contemplated suspension or discharge, and give the employee an opportunity to respond to that evidence and/or submit evidence relevant to the issue before the Select Board makes its decision. Such a hearing need not be a formal trial-type hearing, and may be in executive session to the extent consistent with the Open Meeting Law.
- E. In a case where an employee is under criminal indictment for misconduct in office, the Select Board at its discretion may chose to invoke the procedure of G. L.C.268A Section 25 in lieu of the above procedures

**XI. Performance Evaluation**

The Town's Performance Evaluation Program has been developed to accomplish several goals: to continuously improve the effectiveness and efficiency of Town services; to provide an opportunity for two-way communication and planning among employees and the Select Board; to assist employees in increasing effectiveness of their job performance; to pinpoint weaknesses and strengths and agree upon a practical improvement program;

and to provide documentation of employee performance to serve as the basis for salary adjustments and personnel actions.

Performance Evaluations will be conducted by the Select Board with the following standards and procedures:

- A. Performance Evaluations shall be completed on each employee on an annual basis, using the form provided for this purpose, in time for recommendations to be made for the Annual Town Meeting on an employee's rate of pay for the coming year.
- B. After the ratings are complete, the evaluators must decide whether the employee's overall rating is satisfactory or unsatisfactory. If overall evaluation is unsatisfactory, sufficient justification must be given.
- C. The evaluator must meet with the employee to discuss the evaluation/report, including strengths, weaknesses and methods of improving performance. The employee must be given a copy of this completed evaluation form. During this meeting the job description for the position will be reviewed and revised as necessary.
- D. The evaluator and the employee must both sign the completed evaluation form.
- E. A copy of the evaluation form must be filed in the employee's personnel file. This is not a public record.

## **XII. Disclaimer**

Nothing in this policy is to be construed as a contract.

The employer may change any terms or conditions of employment that are stated in the policy or are established through employment practices. Such changes shall be incorporated into the policy at the next review of the policy.

## **XIII. Separation**

Should any employee deem it necessary or desirable to leave town's employ, she/he shall give the Select Board fourteen days written notice prior to such separation date.

## **XIV. Exit Interviews.**

### **A. Purpose**

An exit interview provides management with valuable information from the employee, which will help shape future organizational policies and decision-making, and brings formal completion to a relationship between the individual and the Town.

### **B. Procedure**

Upon receipt of the employee's letter of resignation, the Select Board will initiate an exit interview with the employee prior to the last day of employment. If an interview cannot be scheduled prior to the termination date due to scheduling conflicts, an exit questionnaire may be sent instead.

The interview is voluntary for the employee.