

---

# TOWN OF ORCHARD PARK

---

## PERSONNEL MANUAL



JANUARY 1, 2024

SUPERVISOR – EUGENE MAJCHRZAK

# Contents

<b>PURPOSE OF THIS PERSONNEL MANUAL</b> .....	4
<b>AT-WILL EMPLOYMENT</b> .....	4
<b>EQUAL EMPLOYMENT OPPORTUNITY</b> .....	5
<b>Americans with Disabilities Act</b> .....	5
<b>Immigration Reform and Control Act</b> .....	5
<b>Religious Accommodation</b> .....	6
<b>INTRODUCTORY PERIOD</b> .....	6
<b>EMPLOYEE BACKGROUND CHECKS</b> .....	6
<b>EMPLOYMENT CATEGORIES</b> .....	7
<b>YOUR PAY</b> .....	7
<b>Recording Your Time</b> .....	7
<b>Overtime</b> .....	8
<b>Rest &amp; Meal Breaks</b> .....	8
<b>Unpaid Time Off</b> .....	9
<b>Paycheck Distribution</b> .....	9
<b>Direct Deposit Payroll Plan</b> .....	9
<b>BENEFITS</b> .....	9
<b>Longevity</b> .....	10
<b>Paid Time Off (PTO) (formerly sick and personal time)</b> .....	10
<b>PTO Balances Upon Separation</b> .....	11
<b>Exempt Employee Pay Policy</b> .....	12
<b>Vacation</b> .....	12
<b>Vacation Anniversary Credit</b> .....	14
<b>Holidays</b> .....	14
<b>Health Insurance</b> .....	15
<b>Dental Insurance</b> .....	18
<b>Flex Benefit Plans</b> .....	19
<b>Consolidated Omnibus Budget Reconciliation Act (Cobra)</b> .....	19
<b>Life Insurance</b> .....	20
<b>Deferred Compensation</b> .....	20
<b>Retirement</b> .....	20
<b>Worker’s Compensation</b> .....	20
<b>LEAVES OF ABSENCE</b> .....	21
<b>Bereavement Leave</b> .....	21

Blood Donation Leave .....	21
Bone Marrow Donation Leave .....	22
Disability Leave .....	22
Family Medical Leave Act (FMLA) .....	22
Family Military Leave.....	23
Military Leave .....	23
Personal Leave .....	24
Jury Duty Leave.....	24
Victims of Crime Leave .....	25
Volunteer Emergency Responders Leave .....	25
Voting Leave.....	25
Witness Leave .....	26
<b>POLICIES .....</b>	<b>26</b>
<b>IT POLICIES .....</b>	<b>26</b>
<b>Hardware/Software Licensing Policy .....</b>	<b>26</b>
<b>Computer Use Policy.....</b>	<b>27</b>
<b>Personal Use Policy.....</b>	<b>27</b>
<b>Cell Phones/Personal Telephone Calls/Texting Policy .....</b>	<b>28</b>
<b>Social Media Policy .....</b>	<b>28</b>
<b>Inappropriate Uses .....</b>	<b>28</b>
<b>Universal Dress Code Policy .....</b>	<b>29</b>
<b>Expense Policy.....</b>	<b>29</b>
<b>Purchases .....</b>	<b>29</b>
<b>Office &amp; Related Purchases .....</b>	<b>29</b>
<b>Equipment Purchases .....</b>	<b>29</b>
<b>In Store &amp; Online Purchases.....</b>	<b>30</b>
<b>Travel &amp; Related Expenses .....</b>	<b>30</b>
<b>Eligible Expenses for Reimbursement.....</b>	<b>30</b>
<b>Hazardous Materials Communication Policy .....</b>	<b>30</b>
<b>Health &amp; Safety Policy .....</b>	<b>30</b>
<b>Fire Safety .....</b>	<b>31</b>
<b>Safety Shoes.....</b>	<b>31</b>
<b>Workplace Violence.....</b>	<b>31</b>
<b>Sexual Harassment Prevention Policy.....</b>	<b>32</b>
<b>No Harassment Policy.....</b>	<b>43</b>
<b>No Retaliation Policy .....</b>	<b>44</b>
<b>Smoking Policy.....</b>	<b>44</b>

<b>Substance Abuse Policy</b> .....	44
<b>Vehicle Policy</b> .....	47
<b>Weapons Policy</b> .....	53
<b>WORK RULES</b> .....	53
<b>Attendance &amp; Punctuality</b> .....	55
<b>DISCIPLINARY PROCEDURES</b> .....	55
<b>ADDITIONAL INFORMATION</b> .....	56
<b>Closings Due to Unexpected Disruptions</b> .....	56
<b>Media Inquiries</b> .....	56
<b>Confidential Information</b> .....	57
<b>Ethics Code of Conduct</b> .....	57
<b>Personnel Records and Administration</b> .....	57
<b>Pregnancy Accommodation</b> .....	58
<b>References</b> .....	58
<b>Searches</b> .....	58
<b>Separation of Employment</b> .....	58
<b>Solicitation &amp; Distribution</b> .....	59

# **WELCOME!**

## **PURPOSE OF THIS PERSONNEL MANUAL**

This manual is designed to acquaint you with the employment policies for the Town of Orchard Park. The Town of Orchard Park will be referred to as “The Town” in this manual. This manual provides you with information about working conditions, employee benefits, and some of the policies affecting your employment. You should read, understand, and comply with all provisions of the manual. Questions regarding information contained in this manual should be presented to your manager, the Town Supervisor or our human resources representative.

No employee manual can anticipate every circumstance or policy question. The need may arise to revise, supplement, or withdraw any policies or portion of this manual from time to time as the Town deems appropriate. The only exception to any change(s) is our employment-at-will policy permitting you or the Town to end our relationship for any reason at any time. Employees will be notified of such changes to this manual as soon as practicable. This personnel manual supersedes and replaces any and all prior employee handbooks or manuals and any inconsistent verbal or written policy statements.

There are no implied or verbal agreements or promises of continued or permanent employment contained in this manual. There is no implied employment contract created by this manual or any other document or written or verbal statement or policy in the Town. It is understood that employees are employees at will who serve at the pleasure of the Town.

## **AT-WILL EMPLOYMENT**

The provisions of this personnel manual are not intended to create contractual obligations with respect to any matters it covers. Nor is this personnel manual intended to create a contract guaranteeing that you will be employed for any specific time period. You can terminate your employment with the Town at any time and for any reason. Similarly, the Town reserves the right to terminate an employee at any time for any reason, or for no reason, with or without notice within the limits of the law. Nothing in this manual or in any document or statement shall limit the right to terminate employment at-will. Employees are hired at-will, and this policy cannot be changed by any oral modifications.

# EQUAL EMPLOYMENT OPPORTUNITY

The Town is committed to equal employment opportunity. We will not discriminate against employees or applicants for employment on any legally recognized basis of “protected class” including, but not limited to race; color; religion; genetic information, national origin, sex, pregnancy, childbirth, or related medical conditions, age, disability, citizenship status, uniform service member status, or any other protected class under federal, state, or local law. You may discuss equal employment opportunity related questions with your manager, the Supervisor, or our human resources representative.

## Americans with Disabilities Act

The Town is committed to providing equal employment opportunities to qualified individuals with disabilities. This may include providing a reasonable accommodation where appropriate for an otherwise qualified individual to perform the essential functions of the job.

It is your responsibility to notify your manager if you need an accommodation. Upon doing so, the manager may ask you for your input or the type of accommodation you believe may be necessary, or the functional limitations caused by your disability. Also, when appropriate, the Town may need your permission to obtain additional information from your physician or other medical or rehabilitation professional. The Town will not seek genetic information in connection with requests for accommodation. All medical information received by the Town in connection with a request for accommodation will be treated as confidential.

## Immigration Reform and Control Act

In compliance with the Federal Immigration Reform and Control Act of 1986 (IRCA), as amended, and any state law requirements, if applicable, The Town is committed to employing only individuals who are authorized to work in the United States.

Each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility.

If an employee is authorized to work in this country for a limited time, the individual will be required to submit proof of renewed employment eligibility prior to expiration of that period to remain employed by the Town.

## Religious Accommodation

The Town is dedicated to equal treatment in recognizing the diversity of the religious beliefs held by our employees. The Town will work to meet requests for work-related accommodations relating to an employee's religious beliefs. The Town reserves the right to offer accommodation to the extent permitted by law, providing it does not cause undue hardship for the Town. Should you desire to take a day off, for religious reasons, you may be permitted to do so, upon giving prior notice to your manager; before scheduling for the week in which the time off is requested. You will be required to use earned, available PTO time. Some considerations in approving the request include the cost to the business, the effect on current policies and the burden on operations and other employees. Please see your manager if you have a need to request accommodation based on religion. The Town reserves the right to reject or approve a request for accommodation.

## INTRODUCTORY PERIOD

The introductory period is intended to give new employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The Town uses this period to evaluate employee capabilities, work habits, and overall performance. The employee or the Town may end the employment relationship at will at any time during or after the introductory period, with or without cause or advance notice.

All new and rehired employees work on an introductory basis for the first 90 calendar days after the date of hire or rehire. Any significant absence of 5 days or more will automatically extend an introductory period by the length of the absence. If The Town determines that the designated introductory period does not allow sufficient time to thoroughly evaluate the employee's performance, the introductory period may be extended for a specified period.

The completion of the introductory period does not guarantee employment for any period of time since you are an at-will employee both during and after your introductory period. The completion of the introductory period does not require that an employee be discharged only for "cause."

Employees covered by Civil Service Law Section 75 shall be disciplined in accordance with the procedures contained therein.

## EMPLOYEE BACKGROUND CHECKS

The Town may conduct a background check as part of the employment process. A comprehensive background check may consist of prior employment verification, professional reference checks and education confirmation and/or criminal history. Any offer of employment is contingent upon the results of the background check. The Town reserves the right to conduct background checks for current employees if a previous background check was not performed for the employee. The employee will be notified and asked to sign an authorization form allowing the background check to be completed.

# EMPLOYMENT CATEGORIES

**Full-time employees:** An employee regularly working 37.5 hours per week on a regularly scheduled basis.

**Part-time employees:** An employee working less than twenty (20) hours per week.

**Seasonal employees:** Employed in a seasonal position, generally for peak periods or recreational employment or vacation replacement, not to exceed five (5) months per year from the start of employment.

**Temporary employees:** An employee hired for a specific period of time usually to replace a full-time employee or to assist with a specific project.

**Non-exempt employees:** Employees eligible for overtime pay as required by federal and state laws.

**Exempt employees:** Employees not eligible for overtime pay.

## YOUR PAY

Wages are set by the Town Board. Your pay will be determined by your position, skill set and the market. The Town Board decides if increases will be given annually and the amount of the increase. Full-time and non-seasonal part-time employees are eligible for increases upon the completion of one year of employment. These employees will then receive a prorated increase amount the following January to bring them into the budget increase cycle. The Town Board has complete authority and discretion to set pay rates.

Employees will receive a Notice of Pay form upon hire.

## Recording Your Time

Accurately recording time worked is the responsibility of every employee. Federal and state laws require the Town to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

All non-elected employees are required to accurately record the start time and end time of their schedule by swiping in daily. You are required to swipe out any time you leave town property for personal reasons during your scheduled shift.

Paid Board Members are on a monthly pay cycle through payroll and do not swipe in and out.

Altering, falsifying, tampering with time records, or recording time on another employee's timecard may result in disciplinary action, up to and including termination of employment.



Payday is every other Friday. There are exceptions during a week that include a holiday. In those instances, hours worked for payroll may need to be submitted earlier than usual. You will be notified in advance when these circumstances occur.

If you fail to complete your time by the required time for processing, or inaccurately record time, the hours you failed to report will be paid in the next regular paycheck. If there is an error in your pay, you should promptly bring the discrepancy to the attention of management so that corrections can be made as quickly as possible. Time records must be completed in accordance with our time-reporting guidelines. Failure to comply may result in disciplinary action up to and including termination.

## Overtime

As a municipality, we will always manage to limit the use of overtime, but we recognize circumstances may arise when overtime is necessary. Overtime must be approved in advance by your manager or supervisor. Management will ensure that no unauthorized overtime hours are worked.

Overtime hours are those hours worked over 40 in a week. Hourly employees will receive time and one-half pay for each hour worked over forty or may request comp time. Overtime assignments will be assigned by management to employees qualified to perform the required work.

Overtime rates are paid to all employees in accordance with federal and state wage and hour laws. Overtime pay is based on actual hours worked. Time off for PTO, vacation, or any leave of absence will not be considered hours worked for purposes of performing overtime calculations. Official town holidays will be counted as hours worked in the calculation of overtime. Except for holidays, time not working is not counted toward overtime calculations.

Non-exempt employees may carry a maximum of 40 hours of comp time in their comp bank per calendar year. At the end of each calendar year, any hours accrued beyond 40 hours will be paid out to the employee in December at their current rate. Comp time is paid to the employee upon request in lieu of receiving the overtime pay in their check when it is earned. Comp time may only be used when an employee has missed working hours during their normal schedule and would otherwise be short in their pay. Comp time may not be used if it puts the total hours into overtime. Comp time bank balances will be paid to employees upon separation.

Failure to work required overtime or working overtime without prior authorization from management may result in disciplinary action.

## Rest & Meal Breaks

The time for rest periods determined by your manager, in all instances will conform to the appropriate legal regulations.

Unless otherwise stated, employees will receive a paid 15-minute rest/break for each 4-hour shift and full-time employees will receive a paid 30-minute lunch break for each shift of more than 6 hours. Rest/break periods should be taken in the middle of work periods.

## Unpaid Time Off

Employees are expected to manage available PTO time based on their anticipated time off requirements each year. There may be times when you may require more time off than your PTO allows in a year, due to unexpected events. Requests for unpaid time off may be approved or denied based on the needs of the department upon the recommendation of your manager to the Town Board.

## Paycheck Distribution

All employees are paid every other week on Friday. We encourage employees to sign up for direct deposit. If you provide an email address to payroll you will receive an email showing your paystub including deductions as soon as the payroll is finished being processed. If you do not have direct deposit, you can pick up your paycheck from the payroll office on pay day. Under no circumstances will your paycheck be released to anyone other than yourself, unless written consent is submitted with your signature authorizing the Town to release your paycheck to someone other than yourself is on file. Proper identification from the authorized individual will be required.

In the event you are away from work on payday, and you do not have direct deposit, we will hold your check for you until your return. You can pick your check up from the payroll office. When our payday is on a holiday, you normally will be paid on the last working day before the holiday.

## Direct Deposit Payroll Plan

The Town of Orchard Park offers, and we encourage the convenience of direct deposit of wages into the bank accounts of your choice. Your entire net pay will go into the accounts you designate. An Authorization Form for direct deposit must be completed and submitted to the payroll department.

Employees choosing direct deposit will receive an email when the funds have been deposited into their accounts. It is important to provide an email address to the payroll department so you can receive this notice. No other notification will be sent regarding the transmittal of your pay.

## BENEFITS

The town is pleased to offer eligible employees benefits as part of your compensation package. Benefits are determined by the Town Board, who reserves the right with notice only as required by applicable regulation, to modify or discontinue in whole or in part any employee benefit.

The descriptions of insurance and other plan benefits are included in this manual as a guide. In determining the benefits and details of each benefit, please refer to the Summary Plan Description (SPD), which governs over the language of any descriptions of the plans, including any referenced in this manual.

The Town retains full discretionary authority to interpret the terms of the plans, as well as full discretionary authority with regard to administrative matters arising in connection with the plans and all issues concerning benefit terms, eligibility, and entitlement.

Benefit eligibility is based on the benefit and is provided in the benefit description in this manual.

## Longevity

Employees shall receive longevity pay upon reaching each milestone listed below and each year thereafter, increasing the amount with each milestone; based upon their continuous and uninterrupted years of full-time service from the date of hire with the Town of Orchard Park.

YEARS OF SERVICE	EMPLOYEES HIRED BEFORE 6/27/12	EMPLOYEES HIRED AFTER 6/27/2012
4	\$489.00	\$200.00
8	\$987.00	\$600.00
12	\$1467.00	\$1000.00
16	\$1956.00	\$1500.00
20	\$2445.00	\$2000.00
24	\$2934.00*	\$2200.00**

\*Capped at \$2934.00 for service beyond twenty-four (24) years for employees hired before 6/27/2012.

\*\* Capped at \$2200.00 for service beyond twenty-four (24) years for employees hired on or after, 6/27/2012.

Longevity pay shall be paid on or about the 1st pay in February each year.

## Paid Time Off (PTO) (formerly sick and personal time)

Full time regular non-exempt employees hired prior to June 27, 2012, will earn PTO time at the rate of one and three-quarter (1 3/4) days per full month of completed service. Full time regular non-exempt employees hired on or after June 27, 2012, will earn PTO time at the rate of one and one quarter (1 1/4) days per full month of completed service.

New hires begin earning PTO in their first full month of employment. New hires may use earned PTO time upon the completion of three (3) full months of employment.

Employees are required to request time off in advance from their direct manager or supervisor when requesting PTO time. Unexpected absences should be communicated as soon as is possible. Whether or not to grant a PTO request rests solely with the manager.

To earn PTO, leave in any given month, an employee will have been actively working with full pay status for at least fifty (50) percent of the working days in the month. PTO and vacation leave hours paid to employees during the month are not considered as actively working hours and do not count toward the fifty (50) percent threshold. Employees not actively working (50) percent of the time will not earn PTO time for that month(s).

Employees may keep a maximum of 120 PTO days in their **PTO bank**. PTO balances at the end of the calendar year will be put into the PTO bank at the employee's rate on 12/31 each year until 120 days have been accumulated. Once 120 days have been accumulated, the excess amount above the 120 PTO maximum days at the end of each year will be paid out in December at the employee's current rate.

Hourly employees may use PTO time for sickness, personal reasons or to care for a family member. With management's approval, the employee may make up the PTO time, providing they can do so in the same pay period the PTO time was used. An employee may not put in for PTO time **and** make up any PTO time taken during a pay period.

**Ex:** Employee is out for 3 hours of an 8-hour schedule. The employee may use 3 hours of PTO time. The employee may not then work 3 hours during the pay period to make up the time;

**OR** the employee may make up the 3 hours with advance approval in the same pay period and not use any PTO time.

Employees off for three (3) or more consecutive scheduled workdays may be required to provide a physician's note with a return-to-work date including any restrictions.

Hourly employees cannot be off without pay if they have earned and unused PTO time or vacation time.

An hourly employee out on FMLA for any reason is required to use any earned and available PTO time.

## PTO Balances Upon Separation

Upon separation from employment, all non-union employees with earned and unused PTO time who have provided a minimum of two weeks' notice and who have 10 years of continued service with the Town will be eligible to 50% of the value of their PTO account as a cash payout. The remaining 50% in the account reverts back to the Town. Employees who are terminated are not eligible for any unused PTO pay.

Upon separation from employment, all non-union employees with earned and unused PTO time who have provided a minimum of two weeks' notice and who have 20 years of continued service with the Town will be eligible to 50% of the value of their **PTO account** as a cash payout. The 50% remaining balance of the PTO account will be put into the **sick bank** to be used for medical premiums. At the employee's request, the entire PTO balance can be put into the sick bank to be used for medical premium payments. Employees who are terminated are not eligible for any unused PTO pay.

# Exempt Employee Pay Policy

Exempt employees will not be paid for a disciplinary suspension or if he/she takes personal time off for one or more days. During the first and last week of employment if an exempt employee does not work the entire week, the employee will only be paid for days worked.

A leave taken under the Family Medical Leave Act will be unpaid unless it is for the exempt employee's own personal illness or injury. To be eligible for pay, a certification from the attending physician must be provided on the FMLA form given to the employee. All provisions of the FMLA law will be followed when administering a request for leave.

Exempt employees off for the employee's personal illness or injury must use any available, earned sick/PTO time. Once this time is exhausted, and the employee is not able to return to work, the employee will be paid the balance of the time off up to a maximum of 90 calendar days in total. Example: if an employee uses 75 sick/PTO days and is unable to return to work, the Town pays for 15 additional calendar days. If the employee does not have any sick/PTO time, the Town will pay a maximum of 90 calendar days for this illness or injury. If circumstances are such that an exempt employee is not able to return after 90 days, an extension will be considered for approval by the Town board. Documentation by a physician will be required to be eligible for pay.

Absences of three or more consecutive days for an illness or injury requires documentation from a medical professional regarding the illness or medical event. The documentation must state a release to work date including any restrictions.

## Vacation

Full-time employees earn vacation time according to these schedules. Seasonal and part time employees are not eligible for this vacation benefit.

Employees hired **before** June 27, 2012, benefit schedule:

Continuous Completed Years of Service	Vacation days available the following January
1 year	10
5 years	15
12 years	20
18+ years	25

Employees hired **on or after** June 27, 2012, benefit schedule:

Continuous Completed Years of Service	Vacation days available the following January
1 year	10
5 years	15
15+ years	20

This policy applies to all regular full-time non-union employees. Vacation is credited in January each calendar year, except for new hires. Vacation for new hires will be credited on the first anniversary and will then be prorated to bring their vacation time into the January credit cycle.

Employees may not use vacation time before it is earned.

Employees must use all earned vacation time by the end of the calendar year. There is no accumulation of vacation time from one (1) calendar year to the next. Unused vacation time for a given year will be forfeited on the last day of such calendar year. New hires may carryover earned vacation time each calendar year until they have started a full calendar year accrual. At that time, the employee will be required to use all earned vacation time before the end of that calendar year.

Vacation time may be taken in ½ and full day increments. In the event a holiday recognized by the Town falls during an employee's vacation, the employee will receive an additional day of vacation. If an employee becomes sick or injured during a vacation leave, the vacation will not be rescheduled, and the vacation days will still be deducted from the employee's balance.

Vacation time does not count as time worked for the calculation of overtime pay.

Earned and unused vacation time will be payable upon termination providing the separating employee has given a minimum of two (2) weeks' notice. Employees separating without notice will forfeit any earned, unused vacation time. Employees laid off, retired or who are involuntarily separated from the Town for any reason other than termination will be paid for earned and unused vacation time accumulated at the time of separation.

Employees terminated for any reason will not be eligible to receive any earned and unused vacation time.

To allow for efficient and continuous operations within the departments, the department manager and the department manager's back-up; the person who can step in to replace the department manager, can only be out of the office simultaneously for a maximum of three consecutive business days.

If an employee has been paid for vacation time before it has been fully earned, and then is separated from employment, the vacation pay paid to the employee in advance of it being earned will be deducted from the employee's final pay. This includes vacation anniversary credit.

A maximum of 10 consecutive workdays may be used for vacation including town designated holidays to allow for efficient operation of our departments. Example: Holiday on Friday and Monday, employee may use 8 days of vacation.

# Vacation Anniversary Credit

An employee reaching an anniversary milestone making them eligible for an increase to their vacation time will be credited in January of their anniversary year with the additional vacation time. If an employee does not reach their anniversary date and separates for any reason, this vacation time will be deducted from the employee's final pay.

## Holidays

The Town celebrates the following schedule as paid holidays. Employees will be paid at their normal rate of pay for the day of the holiday. Part time regular employees, excluding seasonal, are eligible for holiday pay providing the holiday falls on their normally scheduled workday.

To be eligible for holiday pay, employees must work the entire last scheduled day before a holiday and the first workday after the holiday if the employee was scheduled to work those days. Employees calling in without notice will not be eligible for holiday pay. Employees may request time off in advance.

Upon the completion of 90 days of employment, we provide paid time off for the following holidays:

New Year's Day	Columbus Day
Martin Luther King Day	Veteran's Day
President's Day	Thanksgiving Day
Good Friday	Day after Thanksgiving
Memorial Day	Christmas Eve Day
Independence Day	Christmas
Labor Day	

When any of the designated holidays fall on Saturday, the preceding Friday will be observed as the holiday. Whenever any of the above holidays fall on Sunday, the succeeding Monday will be observed as the holiday.

When Christmas Day falls on Saturday, employees will be entitled to a full day off on the preceding Friday and a full day off on the preceding Thursday, for Christmas Eve. When Christmas Day falls on Sunday, employees will be entitled to a full day off on the following Monday and a full day off on the preceding Friday for Christmas Eve.

When an employee is required to work on one of the observed holidays, they will receive time and one half (1 ½) for all hours worked during that holiday, plus eight (8) straight time hours for the holiday.

Employees are eligible for holiday pay only if the day the holiday is designated falls on a day the employee is scheduled to work and will be paid for hours scheduled for that designated holiday.

If a holiday occurs during an employee's approved PTO or vacation time and the employee is scheduled to work that holiday, the employee will not be charged PTO or vacation time for the holiday occurring during that week and the employee will be paid for the holiday.

Employees must work the last entire scheduled workday before **and** the first scheduled day of work after the holiday to be eligible for the holiday pay. Employees calling in will not be paid for the holiday and may be subject to disciplinary action up to and including termination. Employees may request time off in advance of a holiday or following a holiday.

Paid holiday hours will count towards hours worked for the purpose of computing overtime for hourly employees. You are not eligible to receive holiday pay when you are on a leave of absence or not actively working for any reason.

## Health Insurance

Each full-time elected, full-time appointed and full-time non-union employee will be eligible for health insurance coverage. Employees become eligible for coverage the first of the month following the month of hire.

Employees are required to contribute a monthly amount toward the monthly premium cost as follows:

### **Employees hired prior to May 20, 2010:**

Effective January 1, 2020, all employees hired prior to May 20, 2010, shall contribute ten percent (10%) of the health insurance premium equivalent in effect.

Effective January 1, 2021, all employees hired prior to May 20, 2010, shall contribute ten percent (10%) of the health insurance premium equivalent in effect.

Effective January 1, 2022, all employees hired prior to May 20, 2010, shall contribute twelve percent (12%) of the health insurance premium equivalent in effect.

Effective January 1, 2023, all employees hired prior to May 20, 2010, shall contribute thirteen percent (13%) of the health insurance premium equivalent in effect.

Effective January 1, 2024, all employees hired prior to May 20, 2010, shall contribute fifteen percent (15%) of the health insurance premium equivalent in effect.

### **Employees hired after May 20, 2010:**

Employees hired after May 20, 2010, shall contribute twenty percent (20%) of the premium cost of health insurance coverage for the duration of their employment with the Town.

To the extent permitted by law, these contributions shall be made by pre-tax payroll deductions, and/or, at the employee's option, on a pre-tax basis through the IRC Section 125 Flexible Spending Plan.

Employees eligible for a Town contribution toward the cost of his/her health insurance premiums may waive this health insurance and receive a monthly payment. A waiver may be cancelled at the annual open enrollment period or at other times only for reasons approved by the health insurance company such as loss of spousal benefits or coverage under another plan for reasons beyond their control.

The town reserves the right to make changes to our health insurance plan at any time.



## **Retirement-Doctor and Hospital Insurance-Non-union-Excluding Elected and Appointed Positions**

For full-time eligible employees hired prior to June 27, 2012, the Town shall provide health insurance to employees who reach the present legal age of 55 for Tier 1 and 62 for Tier 2; who retire under the New York State Retirement System, and who have served the Town of Orchard Park as a full-time employee for at least twenty (20) continuous complete years or more.

For full-time eligible employees hired on or after June 27, 2012, who retire directly from the Town into the New York State Retirement System who reach the legal retirement age of 55 for Tier 1 and 62 for Tiers 2, 3, 4 and any subsequent tiers, with at least twenty-five (25) continuous complete years or more with the Town of Orchard Park as a full time employee or work related disability pension, excluding a resignation or discharge, shall be eligible to receive health insurance until such time that the retiree reaches the age of Medicare eligibility.

It is understood that the age of 62 shall apply to any present or future tiers for said benefit and shall be unaffected by any subsequent legislative changes in the legal retirement age; that the medical benefit to be provided; single or family, shall be similar to the benefit provided by the Town to active employees, excluding dental.

The town reserves the absolute right to modify, amend or terminate these benefits or eligibility for these benefits at any time and for any reason.

Once the eligible retiree reaches the age of Medicare eligibility or otherwise becomes eligible for Medicare, the retiree and the retiree's spouse must enroll in Medicare Parts A & B at their own expense.

Such retired employees shall be permitted to use accumulated sick leave wages exclusively for the payment of the monthly premium rates. In the event of the death of a retired employee who is receiving a medical insurance benefit, such accumulated sick leave wages shall be utilized exclusively for the payment of continued medical coverage for the surviving spouse of the deceased retired employee.

Employees who retire and who are Medicare eligible will have the option to enroll and pay for Medicare Part B. Employees may reimburse themselves from their accumulated sick leave wages, available for the exclusive use of medical coverage, by providing proof of quarterly or annual payments for the expense of Medicare Part B.

The Town may change the coverage after someone retires and such coverage shall terminate upon the death of the employee or upon reaching Medicare eligibility. In the event of the death of a retired Town employee with twenty (20) years of service with the Town of Orchard Park and receiving coverage under this policy, such health insurance coverage will be extended to the employee's spouse using the value of the employee's accumulated sick leave. Such coverage shall continue until the value of the accumulated sick leave is used, the spouse remarries or dies, whichever is sooner.

The Town reserves the absolute right to modify, amend or terminate these benefits or eligibility for these benefits at any time and for any reason. The Town may change the coverage after someone retires.

To stay on the Town's medical plan, the employee will be required to pay the full premium amount by the first of each month. The employee may use any accumulated, available sick leave to pay the premiums. Failure to pay the full premium each month may result in termination of the medical coverage.

### **Retirement-Doctor and Hospital Insurance-Elected and Appointed Positions**

To be eligible to receive any contribution toward the cost of health insurance premiums during retirement, the individual MUST have reached the age of 55 for Tier 1 and 62 for Tiers 2, 3, 4 and any subsequent NYS Retirement tiers as of the date of that employee's separation from employment with the Town. Any individual that separates from employment with the Town prior to reaching the age of 55 for Tier 1 and 62 for Tiers 2, 3, 4 and any subsequent NYS Retirement tiers is ineligible to receive any Town contribution toward the cost of health insurance benefits.

For individuals who have attained the legal retirement age as of separation from Town employment, eligibility for any Town contribution toward retiree health insurance premiums is based upon position, first date of service and length of service with the Town.

Part-time elected and appointed positions regardless of the first date of service or completed years of service are ineligible for any Town contribution toward retiree health insurance premiums.

Full-time elected positions, including Supervisor, Town Clerk and Highway Superintendent with the first date of service starting before June 27, 2012, must have 14 years or more of completed service and will be required to contribute toward the health insurance premiums. Please contact the accounting department for the cost.

Full-time elected positions, including the Supervisor, Town Clerk and Highway Superintendent with the first date of service starting after June 26, 2012, must have 20 years or more of completed service and will be required to contribute toward the health insurance premiums. Please contact the accounting department for the cost.

If a Town Official is eligible to receive a Town contribution toward health insurance premiums based upon position, first date of service and length of service, such contribution toward health insurance premium costs shall continue for the life of the full-time elected official and/or spouse, until such spouse remarries or his/her death.

It is understood that the medical benefit to be provided; single or family, shall be similar to the benefit provided by the Town to active employees, excluding dental.

Once an individual in an elected or appointed position reaches the age of Medicare eligibility or otherwise becomes eligible for Medicare, regardless of the first date of service with the Town, the retiree and the retiree's spouse must enroll in Medicare parts A and B at their own expense.

Once an eligible retiree and the eligible retiree's spouse reach the age of Medicare eligibility or otherwise becomes eligible for Medicare, that individual will only be entitled to coverage under a Forever Blue or Senior Blue Plan that the Town is then offering to retirees.

The Town reserves the absolute right to modify, amend or terminate these benefits or eligibility for these benefits at any time and for any reason. The Town may change the coverage after someone retires.

## Dental Insurance

Each full-time elected, full-time appointed and full-time non-union employee is required to participate in the Town's dental plan.

Employees are required to pay a monthly amount for the premium cost as follows:

### **Employees hired prior to May 18, 2008:**

Effective January 1, 2019, all employees hired prior to May 18, 2008, shall contribute ten percent (10%) of the dental insurance premium equivalent in effect that year for the duration of their employment with the Town.

### **Employees hired after May 18, 2008, and prior to May 20, 2010:**

Effective July 1, 2016, all employees hired after May 18, 2008, but prior to May 20, 2010, shall contribute ten percent (10%) of the dental insurance premium equivalent in effect each year for the duration of their employment with the Town.

### **Employees hired after May 20, 2010:**

Employees hired after May 20, 2010, shall contribute twenty percent (20%) of the premium cost of dental insurance coverage for the duration of their employment with the Town.

To the extent permitted by law, these contributions shall be made by pre-tax payroll deductions, and/or, at the employee's option, on a pre-tax basis through the IRC Section 125 Flexible Spending Plan.

Please refer to the Dental Plan for details regarding benefits.

The Town reserves the right to make changes to our dental plan at any time.

### **Retirement-Dental Insurance**

Full-time elected positions, including the Supervisor, Town Clerk and Highway Superintendent with the first date of service starting before June 27, 2012, must have 14 years or more of completed service and will be required to contribute toward the dental insurance premiums. Please contact the accounting department for the cost.

Full-time elected positions, including the Supervisor, Town Clerk and Highway Superintendent with the first date of service starting after June 26, 2012, must have 20 years or more of completed service and will be required to contribute toward the dental insurance premiums. Please contact the accounting department for the cost.

To the extent permitted by law, these monthly contributions may be made by pre-tax payroll deductions, and/or, at the employee's option, on a pre-tax basis through the IRC Section 125 Flexible spending Plan.

It is understood that the medical benefit to be provided; single or family, shall be similar to the benefit provided by the Town to active employees, excluding dental.

Full-time Elected Officials upon qualifying for retirement health benefits paid for by the Town; based upon position, the first date of service and length of service and reaching NYS Retirement legal retirement age, shall be eligible to enroll in the single or family Dental Plan offered by the Town. The retired full-time elected official will be required to pay the full Dental Plan rate in effect or the COBRA rate for the Dental Plan as determined by the plan provider.

The Town reserves the right to make changes to our health insurance at any time.

Retired employees opting out of the Town's health insurance plan are unable to rejoin the Town's health plan at a future time.

## **Flex Benefit Plans**

The Town is pleased to offer a choice of either of these plans to full-time employees who enroll in our health insurance plan:

1. Health Reimbursement Arrangement (HRA) – the Town reimburses employees \$100 a month for employees hired before June 27, 2012. Employees hired on or after June 27, 2012, will receive \$50 per month. The HRA amount may be used for medical related expenses only such as vision, dental, co-pays, deductibles, and health insurance). HRA balances at the end of the calendar year roll over from year to year.
2. Flexible Spending Account (FSA) – the balance of this account does NOT roll over at the end of the calendar year. This account may be used for medical-related expenses in addition to other insurance-related expenses.

You have an opportunity to enroll in either plan during the annual open enrollment period.

Retiring employees may use balances from their HRA account for qualified expenses.

## **Consolidated Omnibus Budget Reconciliation Act (Cobra)**

The Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health insurance coverage under the Town's health plan when a "qualifying event" would normally result in the loss of eligibility. Some common qualifying events are resignation, termination of employment, or death of an employee; a reduction in an employee's hours or a leave of absence; an employee's divorce or legal separation; and a dependent child no longer meeting eligibility requirements.

Under COBRA, the employee or the employee's beneficiary pays the full cost of coverage at the Town's group rates plus a 2% administration fee. The Town provides each eligible employee with a written notice describing rights granted under COBRA when the employee becomes eligible for coverage under the Town's health insurance plan. The notice contains important information about the employee's rights and obligations.

## Life Insurance

The Town provides life insurance to full-time non-union employees in the amount of \$20,000.

## Deferred Compensation

The Town provides a Deferred Compensation Program. This is a benefit that authorizes the Town to withhold and pay a portion of the employee's pay in the future. Please contact the payroll department for details.

Health, dental and life insurance benefits become available to full-time employees on the first of the month following the employee's hire date.

## Retirement

The Town of Orchard Park employees are eligible for retirement benefits in accordance with the New York State Retirement System, as provided by law. Enrollment is required for this benefit. Please see our Payroll Specialist for information.

## Worker's Compensation

Employees of the Town are covered through workers' compensation insurance when the employee is injured on the job or suffers an illness resulting from their job. This program covers any injury or illness sustained in the course of employment that requires medical, surgical, or hospital treatment. Subject to applicable legal requirements, workers' compensation insurance provides benefits after a short waiting period or, if the employee is hospitalized, immediately.

Employees who sustain work-related injuries or illnesses must inform their manager and the Supervisor in writing immediately, but no later than 24 hours after the incident. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will prevent delays for an eligible employee to qualify for coverage. When an employee reports an incident directly to the worker's compensation board, the employee is required to also provide a copy of the report to the Supervisor. Failure to comply with these reporting requirements will result in disciplinary action up to and including termination.

Claims for worker's compensation insurance will be processed and paid by our insurance carrier.

Employees returning to work after a worker's compensation leave are required to present a physician's release to work note indicating if there are any restrictions.

Employees out on a worker's compensation injury will be placed on FMLA leave. If you are out with a work-related injury, your position will be held available for 12 weeks from the date of injury. After the 12-week period expires, and if required by operational needs, the Town may seek a regular replacement. You are not terminated by operation of this policy. Reinstatement rights are available for a maximum of six months from the date of the original injury. If you are available to return to work during the reinstatement period of six months and your former job is no longer available, you will be offered an available comparable position for which you are qualified. If no job is available, you will be placed on a preferential reinstatement list for a period of six months. This policy will be administered in compliance with all state laws.

## LEAVES OF ABSENCE

### Bereavement Leave

Employees are eligible immediately upon hire for three (3) paid days for the death of an immediate family member. Members of the immediate family include spouses, spouse's parents, domestic partners, parents, children, stepchildren, children of domestic partners, siblings, grandparents, grandchildren, or relatives residing in the immediate household with the employee. Employee's will be entitled to the day of the funeral or memorial service for a brother-in-law or sister-in-law.

Employees are eligible for bereavement leave providing the employee attends the wake, memorial service, and/or funeral.

Employees who are on leave for any reason except vacation, when the referenced wake, memorial service or funeral occur will not be compensated for bereavement leave. Vacation time will not be charged to the employee when it has become necessary to attend a wake, memorial service, or funeral for an immediate family member during the vacation leave.

In the event there are other individuals whose funeral you would like to attend who are not covered by this policy; hourly employees may do so by using earned PTO time that is available.

Management may require proof of the relationship of the deceased when time off for bereavement is requested.

### Blood Donation Leave

Employees who work an average of 20 or more hours per week are entitled to up to three hours of unpaid leave in any 12-month period to donate blood. The 12-month period will be based on the calendar year. Employees must give "reasonable notice" of their intent to take leave to give blood and documentation of the donation may be required.

## Bone Marrow Donation Leave

Employees who work an average of 20 hours or more each week are eligible to receive up to 24 work hours of unpaid leave to donate bone marrow. You are required to provide your manager with written physician verification of the purpose and length of each leave.

## Disability Leave

Full-time and part-time employees are eligible for unpaid disability leave after successfully completing their introductory period. Disability leave due to a non-occupational illness, injury or pregnancy-related disability is not to exceed 12 weeks. Disability leave for a serious illness or injury will be designated FMLA leave.

Granting this leave prior to the completion of the eligibility period and/or beyond the maximum period stated above may be required as a reasonable accommodation.

Employees requesting leave must provide written notice of the disability, including a doctor's certificate stating the nature of the disability and the expected date of return to work. The Town will not seek genetic information in connection with requests for disability leave. All medical information received by the Town in connection with a request for leave under this policy will be treated as confidential.

To the extent allowed by the insurance contract and applicable laws, the Town will continue to provide medical insurance coverage for employees on authorized disability. You will be billed for your portion of the monthly premium which must be paid by the first of the month if you wish to continue coverage.

When you can return to work, the Town requires one week's advance notice to include a doctor's certificate stating that you are medically able to return to your normal duties, or stating any restrictions. The Town reserves the right to require a physical examination by a physician of our own choosing prior to your resumption of duties, as allowed by state law.

We will return you to the same or similar position you held prior to the disability leave, subject to our staffing and business requirements. Your continued absence from work beyond your disability (as determined by your physician) will be deemed a voluntary resignation of your employment. This leave may run concurrently with any other leave where permitted by state and federal law.

Employees will be required to use earned and available PTO while out on disability leave.

## Family Medical Leave Act (FMLA)

FMLA provides eligible employees with a right to leave, health insurance benefits and, with some limited exceptions, job restoration. FMLA provides eligible employees up to 12 weeks of leave in a 12-month period of time in certain situations where they can't work because of their own serious health conditions or because they have to care for a family member with a serious health condition. The 12-month period is measured backward from the date an employee uses FMLA leave.

## **Employees may request a leave under FMLA for the following reasons:**

The birth or placement of a child;

The need to care for a spouse, child or parent who has a serious health condition (which includes "incapacity due to pregnancy and for prenatal medical care," according to DOL);

The employee's own serious health condition (which includes "incapacity due to pregnancy and for prenatal medical care," says DOL), which renders him or her unable to perform the essential functions of the job;

Any qualifying need related to the fact that a spouse, child or parent is a military member on covered active duty or called to covered active-duty status.

To be eligible for FMLA, employees must have worked for the Town for a minimum of 12 months and must have worked 1,250 hours within 12 months prior to the time of the leave.

Employees requesting FMLA must submit a written certificate form 30 days in advance of the requested time off unless unforeseen circumstances arise making it impossible to do so. Please contact our human resources representative for the form and additional information.

Employees may take FMLA leave intermittently when medically necessary due to a serious health condition of the employee or covered family member.

Hourly employees out on FMLA are required to use earned and available PTO time until it is exhausted. Vacation time may be used by the employee, but it is not a requirement.

Employees with health insurance coverage through the Town will continue to have coverage during the FMLA leave. Employees without available paid leave time will be required to continue paying contributions for medical and any other benefit where contributions are payroll deductions. All payments must be made by the first of each month. Failure to make payments may result in the termination of the benefits.

Employees returning from FMLA leave will return to the same position, or an equivalent one.

## **Family Military Leave**

Eligible employees who are the spouse of a member of the Armed Forces of the United States, National Guard or Reserves who has been deployed during a period of military conflict to a combat theater or combat zone may take up to ten days of unpaid family military leave during the military service member's leave or deployment.

To be eligible for family military leave, employees must work an average of twenty hours or more per week.

## **Military Leave**

A military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). Advance notice of military service is required, unless military necessity prevents such notice, or it is otherwise impossible or unreasonable. The leave will be paid in accordance with federal and state laws. PTO will continue to accrue during a military leave of absence.



Continuation of health insurance benefits is available as required by USERRA based on the length of the leave and subject to the terms, conditions, and limitations of the applicable plans for which the employee is otherwise eligible.

Employees on military leave for up to 30 days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. Employees on longer military leave must apply for reinstatement in accordance with USERRA and all applicable state laws.

Employees returning from military leave will be placed in the position they would have attained had they remained continuously employed or a comparable one depending on the length of military service in accordance with USERRA. They will be treated as though they were continuously employed for the purpose of determining benefits based on length of service.

## Personal Leave

Full-time non-union employees may submit a written request for a leave of absence not to exceed 6 months. During this leave, available earned PTO time must be used until exhausted. The balance of the leave will be without pay. The determination of whether a request for leave without pay will be granted rests solely with the Town Board. The Board will consider the request at the next Board meeting following the request and respond within 5 days of the meeting.

Employees must notify the Town at least two (2) weeks prior to the scheduled return to work date. The failure of an employee to return to work on the scheduled return to work date will be considered a voluntary resignation.

Employees are not eligible to earn or accrue seniority and/or any other benefits during this leave of absence.

Employees are responsible for paying any health insurance payments or similar payments normally deducted from the employees' pay by the first of each month. Failure to make timely payments may result in a loss of coverage.

Employees requesting a leave of absence under false pretenses will be subject to disciplinary action up to and including termination.

## Jury Duty Leave

The Town encourages employees to fulfill their civic duties related to jury duty. If you are summoned to report for jury duty, notify management as soon as possible to allow scheduling arrangements.

Employees will be paid their normally scheduled hours for a maximum of ten days while serving on jury duty. This pay will be calculated at their regular rate. Employees are eligible for this pay providing the days they are serving would be normally scheduled workdays for them. Jury duty pay does not count toward overtime calculations.

For each week of jury duty, a certificate of jury service must be certified by the Court and turned in to payroll.

Employees are to report to work on any day, or portion thereof that is not actually spent in the performance of jury service and will only be paid for actual days served.

## Victims of Crime Leave

The Town will grant reasonable and necessary leave from work, without pay, to employees who are victims of a crime to attend or participate in legal proceedings pertaining to the crime. You must give reasonable notice that leave under this policy is required.

## Volunteer Emergency Responders Leave

During the time that an emergency exists following a declaration of emergency under the law, The Town will grant a “volunteer emergency responder” an unpaid leave of absence while engaged in the actual performance of his or her duties as a volunteer firefighter or an enrolled member of a volunteer ambulance service unless the Town determines that the employee's absence would impose an undue hardship on the business.

The Town will only grant leave when it has previously received written documentation from the head of the fire department or volunteer ambulance service documenting the employee's status as a volunteer firefighter or member of a volunteer ambulance service.

Upon request, the employee must provide the Town with a notarized statement from the head of the volunteer fire department or volunteer ambulance service certifying the period of time that the employee responded to any emergency.

The leave will be unpaid unless the employee substitutes available PTO time.

## Voting Leave

Employees that are registered voters are urged to exercise their right to vote. In accordance with New York state election laws, employees **without sufficient time during non-working hours** within which to vote, may request up to two hours of paid time off to vote in **eligible** elections. Sufficient time to vote outside of scheduled working hours is considered four consecutive hours between the opening of the polls and the beginning of the employee's work shift, or four consecutive hours between the end of the employee's shift and the polls closing. Requests for voting leave must be submitted two working days before Election Day.

Eligible elections are all elections under the Election Law in its entirety—including primary and special elections. Specifically, the Election Law covers federal, state, county, city, town, or village office elections. It does not apply to school district, fire district, or library district elections and budget votes, as these are generally governed by laws other than the Election Law.

The Town reserves the right to designate the time off at the beginning or end of the employee's schedule. Voting leave does not apply to early voting. Employees will not be granted time off for early voting.

## Witness Leave

Employees are given the necessary time off without pay to attend or participate in a court proceeding in accordance with state law. The Town asks that you notify your manager of the need to take witness leave as far in advance as is possible.

## POLICIES

### IT POLICIES

These policies document the authorized user's responsibility to safeguard the desktop/laptop computer terminal equipment and information from accidental or deliberate unauthorized access, tampering, snooping, distribution, or destruction. It provides guidance for the use of Town of Orchard Park Government's Information Technology through a responsible, efficient, ethical and legal manner for "town business purposes" only, in accordance with the mission, policies and operating procedures of the Town of Orchard Park Town Board. Users may be disciplined for noncompliance with this policy. This policy does not purport to address every information technology operating and security issues. It is the user's responsibility to use sound judgment.

Should a user identify an issue or situation that they are not certain how to deal with, they should inquire with management. The Information Technology Use and Security Policy is subordinate to any employment contract or other employment agreements. The Town of Orchard Park Government may add to, or change, the policies at any time. Related training will be provided and must be completed by all users of the Town of Orchard Park's Information Technology. Failure to comply with any training requirements will result in discipline up to and including termination.

Passwords are a critical component of information security. Passwords must not be shared with anyone, including supervisors and coworkers. All passwords are to be treated as sensitive, confidential Town of Orchard Park information.

### Hardware/Software Licensing Policy

The Town purchases or licenses the use of various computer software programs. The Town is also concerned that our property rights in the data processing environment which the Town develops for our own use will also be protected. As an employee you are required to treat all information you are exposed to regarding hardware and software confidentially. Employees who have access to our data processing systems and software will be required to sign a non-disclosure agreement. No one in the business has the right to duplicate this computer software or its related documentation.

The Town does not permit the illegal duplication of software. You must use the software in accordance with the license agreement. This policy applies not only to individual desktop computers and laptops but to local area networks as well.

Only IT can authorize configuration changes to any computer hardware submitted via a Work Request. Only IT personnel can install or replace computer hardware including but not limited to zip drives, sound cards, etc.

## Computer Use Policy

You are prohibited from using our internet service for personal use, which includes but is not limited to email, FTP, web browsing or news groups; accessed on or from Town premises, accessed using the Town's computer equipment or via the Town's paid access methods and/or in a manner that identifies the individual with the Town for illegal, malicious purposes; offensive and harassing material, personal communications, chain letters, buying or selling goods, accessing communications of coworkers or third parties, unauthorized access to any computer system; using another individual's account or identity without authorization, attempting to circumvent security or auditing systems of our business or another organization without prior authorization.

Limited incidental use of internet service for personal, non-business purposes are acceptable but must not involve any prohibited activity stated above, interfere with your productivity or that of your coworkers, consume system resources or storage capacity or otherwise deplete system resources available for business purposes.

Employees should not expect privacy with respect to any of their activities using Town provided internet access or services and the Town reserves the right to review any files, messages or communications sent, received, or stored on the Town's computer systems. Employees using our computer system for defamatory, illegal, or fraudulent purposes are also subject to civil liability and criminal prosecution in addition to disciplinary action up to and including termination.

## Personal Use Policy

Town of Orchard Park Employees are only permitted to use the Town of Orchard Park's Information Technology Systems/tools for personal needs if, in the determination of the Town, the use does not interfere with official business and involves no additional expense to the Town of Orchard Park. No additional expense means that employee's personal use of town equipment is limited to those situations where the town is already providing equipment or services and the employee's use of such equipment or services will not result in any additional expense to the town. Any personal use of the Town of Orchard Park's Information Technology systems/tools must take place during the employee's non-working hours.

Employees are prohibited from modifying the Town of Orchard Park's Information Technology systems/tools, including loading personal software, or making hardware configuration changes. Personal photos and documents may not be stored on the Town's systems.

The privilege to use Town of Orchard Park's Information Technology systems/tools for non-town business may be revoked or limited at any time by this policy.

Violations of this policy will be subject to disciplinary action up to and including termination.

# Cell Phones/Personal Telephone Calls/Texting Policy

Personal cell phone usage should be limited to breaks and lunchtime. Management understands that personal phone calls and text messages during work time can be necessary under certain circumstances. Employees should practice discretion when making or receiving personal calls or texts. Cell phone and telephone use should not inconvenience co-workers or distract the employee from their work. Please keep the length of personal calls/texts to a minimum.

## Social Media Policy

Facebook and other social media sites may only be utilized in connection with Town programs, such as a Recreation activity, or by those members of the Police Department as designated by the Chief of Police who may utilize these sites for law enforcement activities. Use of any social media on work time just be specifically authorized by a Department head and performed in adherence with the employee's direct scope of work and responsibilities. Staff authorized to use social media re responsible for complying with applicable federal, state and town laws, regulations, and policies. This includes adherence to established laws and policies regarding copyright, records retention, Freedom of Information Act (FOIA) and other protected information such as Personal Identifiable Information (PII). Confidential information such as HIPAA protected content must remain confidential.

## Inappropriate Uses

Town of Orchard Park employees are expected to conduct themselves professionally in the workplace and refrain from using town equipment for activities that are inappropriate. Misuse or inappropriate use of town equipment includes but is not limited to:

- Any use that could cause congestion, delay, or disruption of services to any Town of Orchard Park Information Technology systems/tools. For example, greeting cards, videos, sound or other large file attachments can degrade the performance of the entire network. "Push" technology on the Internet and other continuous data streams would also degrade the performance of the entire network and be an inappropriate use.
- Using the Town of Orchard Pak Information Technology systems/tools as a staging ground or platform to gain unauthorized access to other systems.
- The creation, copying transmission, or retransmission of chain letters or other unauthorized mass mailing regardless of the subject matter.
- Use for posting agency information to external newsgroups, bulletin boards or other public forums without authority.
- Any use that could generate additional expense to the Town of Orchard Park government.
- The unauthorized acquisition, use, reproduction, transmission, or distribution of any controlled information including computer software and data, that includes privacy information, copyrighted, trademarked or material with other intellectual property rights (beyond fair use), proprietary data or export-controlled software or data.

# Universal Dress Code Policy

Employees are expected to maintain personal cleanliness and present a neat, professional appearance at all times. You represent the Town with your appearance as well as your actions. Properly attired individuals, in accordance with the requirements of your position, helps to create a favorable image for the Town, to the public and other employees.

## Unacceptable clothing for employees:

Halter tops, jogging suits, tank tops, flip flops, crocs and slides and muscle shirts.

Jeans may be worn on Fridays. Clothing should NOT exhibit pictures or messages that could be offensive and in violation of any of our policies.

Employees who are required to work in the field are permitted to dress in clothing appropriate for their job duties, as authorized by the Department Manager.

Required safety equipment should be worn in accordance with our safety policies.

Employees in violation of this policy will be sent home without pay and unable to use PTO time to dress in accordance with this policy.

# Expense Policy

## Purchases

Purchases for the Town are tax exempt. A tax-exempt letter must be submitted with purchases. If we are charged taxes, the invoice will be given to the purchaser to submit the tax-exempt letter and request a corrected invoice. *Purchases should not be broken out to stay below the \$500 threshold to avoid getting approval.*

Purchases for individuals other than Town employees may not be put on a Town credit card.

## Office & Related Purchases

Requests for purchases for office equipment and supplies should be sent to the Assistant to the Supervisor. Please do not take items from the mailroom. All purchased items will be delivered to the Supervisor's area. You will be notified when your order is ready for pickup. The Town is tracking receipt of orders and is unable to do so if orders are removed from the mailroom and Supervisor's area without our knowledge.

## Equipment Purchases

Equipment purchases for \$500 or more must have prior approval by the Town Supervisor. Upon approval of the request, a determination will be made about the most efficient method to order the equipment.

## In Store & Online Purchases

Personal charge cards may not be used for Town purchases. Town charge cards may not be used for personal purchases. If an employee is an authorized purchaser, (s)he must pay for all Town purchases on the Town account. Purchases made on personal charge cards will not be reimbursed. All receipts for purchases must be turned in to the Accounting Department.

## Travel & Related Expenses

Employees who incur work-related expenses for meetings, conferences or travel are required to submit those expenses for reimbursement on the Town's Expense Report Form. Travel expenses must be submitted within 10 days after the travel date. Other expenses must have a description listed with the name of the attendees and the purpose of the meeting. All expenses must have a receipt.

## Eligible Expenses for Reimbursement

Expenses associated for conducting meetings with individuals who do not work at the Town to discuss Town business for the benefit of the Town that cannot be done during the day on Town property. Ineligible expenses include alcohol, gifts, donations, purchases for employees, food purchases/meals with other Town employees unless pre-approved by the Town Supervisor.

## Hazardous Materials Communication Policy

While conducting Town business we may use chemicals in some areas. You should be familiar with the handling, use, storage, and control measures relating to these substances if you use or will be exposed to them. Safety Data Sheets (SDS) are available for inspection. If you have any questions, ask a manager.

## Health & Safety Policy

To assist in providing a safe and healthful work environment for employees and visitors, the Town encourages workplace safety. Safety in the workplace depends on the alertness and personal commitment of all.

- Do not operate vehicles unless you are licensed to do so;
- You must report immediately to management any and all unsafe conditions;
- Always use the correct tools for the job at hand;
- Always use required personal protective equipment;
- Put away all tools and equipment after use;
- Use proper lifting techniques to avoid injury;
- Contact management if an injury warrants medical attention;
- Report all injuries or accidents to your manager immediately;
- Report any hazardous conditions to management.

## Fire Safety

Every employee is responsible for recognizing potential fire dangers and taking an active role in preventing fires. Employees are required to observe all PESCH safety requirements and regulations. Flammable materials are to be handled and stored with caution. Employees should not block any fire doors, fire exits, fire extinguishers, windows, or doorways. Review the fire escape routes in your work area and become familiar with the locations of all fire extinguishers.

## Safety Shoes

The Town requires safety footwear to be worn by employees engaged in work activity creating reasonable potential for foot injury. The Town will reimburse employees up to \$150 every two years for one pair of approved safety shoes in compliance with PESH guidelines if the employee's job requires safety shoes. It is the responsibility of the employee to provide a receipt for the purchase to receive reimbursement. Receipts should be submitted to the accounting department.

## Workplace Violence

The Town has a zero-tolerance policy concerning threats, intimidation, and violence of any kind in the workplace either committed by or directed at our employees. Employees who engage in such conduct will be disciplined, up to and including immediate termination of employment. The term Workplace Violence as used in this policy refers to the following:

- Physical assault, aggressive, violent, or threatening behavior, verbal abuse, and any other kind of physically or verbally harassing behavior;
- That occurs in the Town's workplace or occurs anywhere else if it is related to the workplace, whether on-duty or off-duty;
- Is engaged in by an employee toward an employee or non-employee or is engaged in by a non-employee toward an employee or non-employee.

Employees are not permitted to bring weapons of any kind onto Town property unless it is required to perform the functions of the individual's job. If an employee feels he or she has been subjected to threats or threatening conduct by a co-worker, vendor or other third party, the employee should notify a member of management immediately.



# Sexual Harassment Prevention Policy

## **Purpose and Goals**

The Town of Orchard Park is committed to maintaining a workplace free from harassment and discrimination. Sexual harassment is a form of workplace discrimination that subjects an employee to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation. Sexual harassment is often viewed simply as a form of gender-based discrimination, but the Town of Orchard Park recognizes that discrimination can be related to or affected by other identities beyond gender. Under the New York State Human Rights Law, it is illegal to discriminate based on sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, or status as a victim of domestic violence. Our different identities impact our understanding of the world and how others perceive us. For example, an individual's race, ability, or immigration status may impact their experience with gender discrimination in the workplace. While this policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are the same. The purpose of this policy is to teach employees to recognize discrimination, including discrimination due to an individual's intersecting identities, and provide the tools to take action when it occurs. All employees, managers, and supervisors are required to work in a manner designed to prevent sexual harassment and discrimination in the workplace. This policy is one component of the Town of Orchard Park's commitment to a discrimination-free work environment.

## **Goals of this Policy:**

Sexual harassment and discrimination are against the law. After reading this policy, employees will understand their right to a workplace free from harassment. Employees will also learn what harassment and discrimination look like, what actions they can take to prevent and report harassment, and how they are protected from retaliation after taking action. The policy will also explain the investigation process into any claims of harassment. Employees are encouraged to report sexual harassment or discrimination by filing a complaint internally with human resources. Employees can also file a complaint with a government agency or in court under federal, state, or local antidiscrimination laws. To file an employment complaint with the New York State Division of Human Rights, please visit <https://dhr.ny.gov/complaint>. To file a complaint with the United States Equal Employment Opportunity Commission, please visit <https://www.eeoc.gov/filing-charge-discrimination>.

## **Sexual Harassment and Discrimination Prevention Policy:**

The Town of Orchard Park's policy applies to all employees, applicants for employment, and interns, whether paid or unpaid. The policy also applies to additional covered individuals. It applies to anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in our workplace. These individuals include persons commonly referred to as independent contractors, gig workers, and temporary workers. Also included are persons providing equipment repair, cleaning services, or any other services through a contract with the Town of Orchard Park. For the remainder of this policy, we will use the term "covered individual" to refer to these individuals who are not direct employees of the company.

Sexual harassment is unacceptable. Any employee or covered individual who engages in sexual harassment, discrimination, or retaliation will be subject to action, including appropriate discipline for employees. In New York, harassment does not need to be severe or pervasive to be illegal. Employees and covered individuals should not feel discouraged from reporting harassment because they do not believe it is bad enough, or conversely because they do not want to see a colleague fired over less severe behavior. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.

Retaliation is prohibited. Any employee or covered individual that reports an incident of sexual harassment or discrimination, provides information, or otherwise assists in any investigation of a sexual harassment or discrimination complaint is protected from retaliation. No one should fear reporting sexual harassment if they believe it has occurred. So long as a person reasonably believes that they have witnessed or experienced such behavior, they are protected from retaliation. Any employee of the Town of Orchard Park who retaliates against anyone involved in a sexual harassment or discrimination investigation will face disciplinary action, up to and including termination. All employees and covered individuals working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, the Supervisor or human resources. All employees and covered individuals who believe they have been a target of such retaliation may also seek relief from government agencies, as explained below in the section on Legal Protections.

Discrimination of any kind, including sexual harassment, is a violation of our policies, is unlawful, and may subject the Town of Orchard Park to liability for the harm experienced by targets of discrimination. Harassers may also be individually subject to liability and employers or supervisors who fail to report or act on harassment may be liable for aiding and abetting such behavior. Employees at every level who engage in harassment or discrimination, including managers and supervisors who engage in harassment or discrimination or who allow such behavior to continue, will be penalized for such misconduct.

The Town of Orchard Park will conduct a prompt and thorough investigation that is fair to all parties. An investigation will happen whenever management receives a complaint about discrimination or sexual harassment, or when it otherwise knows of possible discrimination or sexual harassment occurring. The Town of Orchard Park will keep the investigation confidential to the extent possible. If an investigation ends with the finding that discrimination or sexual harassment occurred, the Town of Orchard Park will act as required. In addition to any required discipline, the Town of Orchard Park will also take steps to ensure a safe work environment for the employee(s) who experienced the discrimination or harassment. All employees, including managers and supervisors, are required to cooperate with any internal investigation of discrimination or sexual harassment.

All employees and covered individuals are encouraged to report any harassment or behaviors that violate this policy. All employees will have access to a complaint form to report harassment and file complaints. Use of this form is not required. For anyone who would rather make a complaint verbally, or by email, these complaints will be treated with

equal priority. An employee or covered individual who prefers not to report harassment to their manager or employer may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both the employer and a government agency.

Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of, to the Supervisor of human resources.

This policy applies to all employees and covered individuals, such as contractors, subcontractors, vendors, consultants, or anyone providing services in the workplace, and all must follow and uphold this policy. This policy must be provided to all employees in person or digitally through email upon hiring and will be posted prominently in all work locations. For those offices operating remotely, in addition to sending the policy through email, it will also be available on the organization's shared network.

### **What Is Sexual Harassment?**

Sexual harassment is a form of gender-based discrimination that is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Sexual harassment is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do. Respecting an individual's gender identity is a necessary first step in establishing a safe workplace.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of the Town of Orchard Park's policy. The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending

to harass is not a defense. The impact of the behavior on a person is what counts. Sexual harassment includes any unwelcome conduct which is either directed at an individual because of that individual's gender identity or expression (perceived or actual), or is of a sexual nature when:

The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. The impacted person does not need to be the intended target of the sexual harassment;

Employment depends implicitly or explicitly on accepting such unwelcome behavior; or

Decisions regarding an individual's employment are based on an individual's acceptance to or rejection of such behavior. Such decisions can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.

**There are two main types of sexual harassment:**

Behaviors that contribute to a hostile work environment include, but are not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, gender identity, or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements which an employee finds offensive or objectionable, causes an employee discomfort or humiliation, or interferes with the employee's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment. This is also called quid pro quo harassment.

Any employee or covered individual who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this policy.

**Examples of Sexual Harassment**

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited. This list is just a sample of behaviors and should not be considered exhaustive. Any employee who believes they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it:

Physical acts of a sexual nature, such as:

Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body, or poking another employee's body; or

Rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this policy (please contact local law enforcement if you wish to pursue criminal charges).

Unwanted sexual comments, advances, or propositions, such as:

Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits;

This can include sexual advances/pressure placed on a service industry employee by customers or clients, especially those industries where hospitality and tips are essential to the customer/employee relationship;

Subtle or obvious pressure for unwelcome sexual activities; or

Repeated requests for dates or romantic gestures, including gift-giving.

Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history which create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.

Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look:

Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or

Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.

Sexual or discriminatory displays or publications anywhere in the workplace, such as:

Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace;

This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.

Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:

Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;

Sabotaging an individual's work;

Bullying, yelling, or name-calling;

Intentional misuse of an individual's preferred pronouns; or

Creating different expectations for individuals based on their perceived identities:

Dress codes that place more emphasis on women's attire;

Leaving parents/caregivers out of meetings.

## **Who Can be a Target of Sexual Harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. New York Law protects employees and all covered individuals described earlier in the policy. Harassers can be anyone in the workplace. A supervisor, a supervisee, or a coworker can all be harassers. Anyone else in the workplace can also be harassers including an independent contractor, contract worker, vendor, client, customer, patient, constituent, or visitor.

Sexual harassment does not happen in a vacuum and discrimination experienced by an employee can be impacted by biases and identities beyond an individual's gender. For example:

Placing different demands or expectations on black women employees than white women employees can be both racial and gender discrimination;

An individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or

Past experiences as a survivor of domestic or sexual violence may lead an individual to feel re-traumatized by someone's behaviors in the workplace.

Individuals bring personal history with them to the workplace that might impact how they interact with certain behavior. It is especially important for all employees to be aware of how words or actions might impact someone with a different experience than their own in the interest of creating a safe and equitable workplace.

## **Where Can Sexual Harassment Occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer or industry sponsored events or parties. Calls, texts, emails, and social media usage by employees or covered individuals can constitute unlawful workplace harassment, even if it occurs away from the workplace premises, on personal devices, or during non-work hours.

Sexual harassment can occur when employees are working remotely from home as well. Any behaviors outlined above that leave an employee feeling uncomfortable, humiliated, or unable to meet their job requirements constitute harassment even if the employee or covered individual is at home when the harassment occurs. Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

## **Retaliation**

Retaliation is unlawful and is any action by an employer or supervisor that punishes an individual upon learning of a harassment claim, that seeks to discourage a worker or covered individual from making a formal complaint or supporting a sexual harassment or discrimination claim, or that punishes those who have come forward. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this policy.

Examples of retaliation may include, but are not limited to:

Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts;  
Publicly releasing personnel files;  
Refusing to provide a reference or providing an unwarranted negative reference;  
Labeling an employee as “difficult” and excluding them from projects to avoid “drama”;  
Undermining an individual’s immigration status; or  
Reducing work responsibilities, passing an individual over for a promotion, or moving an individual’s desk to a less desirable office location.

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

Made a complaint of sexual harassment or discrimination, either internally or with any government agency;  
Testified or assisted in a proceeding involving sexual harassment or discrimination under the Human Rights Law or any other anti-discrimination law;  
Opposed sexual harassment or discrimination by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of suspected harassment;  
Reported that another employee has been sexually harassed or discriminated against; or  
Encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

### **Reporting Sexual Harassment**

Everyone must work toward preventing sexual harassment, but leadership matters. Supervisors and managers have a special responsibility to make sure employees feel safe at work and that workplaces are free from harassment and discrimination. Any employee or covered individual is encouraged to report harassing or discriminatory behavior to a supervisor, manager, the Supervisor or human resources. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, Supervisor or human resources.

Reports of sexual harassment may be made verbally or in writing. A written complaint form is attached to this policy if an employee would like to use it, but the complaint form is not required. Employees who are reporting sexual harassment on behalf of other employees may use the complaint form and should note that it is on another employee’s behalf. A verbal or otherwise written complaint (such as an email) on behalf of oneself or another employee is also acceptable.

Employees and covered individuals who believe they have been a target of sexual harassment may at any time seek assistance in additional available forums, as explained below in the section on Legal Protections.

## **Supervisory Responsibilities**

Supervisors and managers have a responsibility to prevent sexual harassment and discrimination. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing or discriminatory behavior, or for any reason suspect that sexual harassment or discrimination is occurring, are required to report such suspected sexual harassment to the Supervisor or human resources. Managers and supervisors should not be passive and wait for an employee to make a claim of harassment. If they observe such behavior, they must act. Supervisors and managers can be disciplined if they engage in sexually harassing or discriminatory behavior themselves. Supervisors and managers can also be disciplined for failing to report suspected sexual harassment or allowing sexual harassment to continue after they know about it.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

While supervisors and managers have a responsibility to report harassment and discrimination, supervisors and managers must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment and discrimination can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors and managers must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

## **Bystander Intervention**

Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is required to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;

A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;

A bystander can record or take notes on the harassment incident to benefit a future investigation;

A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and

If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace. Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is required to report it.



## **Complaints and Investigations of Sexual Harassment**

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. An investigation of any complaint, information, or knowledge of suspected sexual harassment will be prompt, thorough, and started and completed as soon as possible. The investigation will be kept confidential to the extent possible. All individuals involved, including those making a harassment claim, witnesses, and alleged harassers deserve a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The Town of Orchard Park] will take disciplinary action against anyone engaging in retaliation against employees who file complaints, support another's complaint, or participate in harassment investigations.

The Town of Orchard Park recognizes that participating in a harassment investigation can be uncomfortable and has the potential to retraumatize an employee. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward those participating.

While the process may vary from case to case, investigations will be done in accordance with the following steps. Upon receipt of a complaint, human resources:

Will conduct a prompt review of the allegations, assess the appropriate scope of the investigation, and take any interim actions (for example, instructing the individual(s) about whom the complaint was made to refrain from communications with the individual(s) who reported the harassment), as appropriate. If the complaint is verbal, request that the individual completes the complaint form in writing. If the person reporting prefers not to fill out the form, a designated town representative will prepare a complaint form or equivalent documentation based on the verbal reporting;

Will take steps to obtain, review, and preserve documents sufficient to assess the allegations, including documents, emails or phone records that may be relevant to the investigation. Human resources will consider and implement appropriate document request, review, and preservation measures, including for electronic communications;

Will seek to interview all parties involved, including any relevant witnesses;

Will create a written documentation of the investigation (such as a letter, memo or email), which contains the following:

A list of all documents reviewed, along with a detailed summary of relevant documents;

A list of names of those interviewed, along with a detailed summary of their statements;

A timeline of events;

A summary of any prior relevant incidents disclosed in the investigation, reported or unreported; and

The basis for the decision and final resolution of the complaint, together with any corrective action(s).

Will keep the written documentation and associated documents in a secure and confidential location;

Will promptly notify the individual(s) who reported the harassment and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written document; and

Will inform the individual(s) who reported of the right to file a complaint or charge externally as outlined in the next section.

### **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by the Town of Orchard Park, but it is also prohibited by state, federal, and, where applicable, local law.

The internal process outlined in the policy above is one way for employees to report sexual harassment. Employees and covered individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may also seek the legal advice of an attorney.

### **New York State Division of Human Rights:**

The New York State Human Rights Law (HRL), N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State and protects employees and covered individuals, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the New York State Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints of sexual harassment filed with DHR may be submitted any time within three years of the harassment. If an individual does not file a complaint with DHR, they can bring a lawsuit directly in state court under the Human Rights Law, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the Town of Orchard Park does not extend your time to file with DHR or in court. The three years are counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases receive a public hearing before an administrative law judge. If sexual harassment is found at the hearing, DHR has the power to award relief. Relief varies but it may include requiring your employer to take action to stop the harassment, or repair the damage caused by the harassment, including paying of monetary damages, punitive damages, attorney's fees, and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Buffalo office: Division of Human Rights, 65 Court Street - #506, Buffalo, New York 14202 (716) 847 – 7632.

Go to [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.

Call the DHR sexual harassment hotline at 1(800) HARASS3 for more information about filing a sexual harassment complaint. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.

**The United States Equal Employment Opportunity Commission:**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 U.S.C. § 2000e et seq. An individual can file a complaint with the EEOC anytime within 300 days from the most recent incident of harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred. If the EEOC determines that the law may have been violated, the EEOC will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred by does not file a lawsuit.

Individuals may obtain relief in mediation, settlement or conciliation. In addition, federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with the New York State Division of Human Rights, DHR will automatically file the complaint with the EEOC to preserve the right to proceed in federal court.

## **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

## **Contact the Local Police Department**

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact their local police department.

## **Conclusion**

The policy outlined above is aimed at providing employees at the Town of Orchard Park and covered individuals an understanding of their right to a discrimination and harassment free workplace. All employees should feel safe at work. Though the focus of this policy is on sexual harassment and gender discrimination, the New York State Human Rights law protects against discrimination in several protected classes including sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, or domestic violence survivor status. The prevention policies outlined above should be considered applicable to all protected classes.

## **No Harassment Policy**

Our intention is to promote a productive, as well as a pleasant work environment. In keeping with this intent, the Town will not allow verbal or physical conduct by any employee; which harasses, disrupts, or interferes with the work performance of another or that creates an intimidating, offensive, or hostile environment. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity.

Any employee who believes that a manager, another employee, or a third party's actions or words constitute unwelcome harassment has a responsibility to report or notify management about the situation as soon as possible. Such report or notification should be made to your manager, the Town Supervisor, or our human resources representative.

Complaints of harassment will be handled and investigated swiftly, promptly and in an impartial and confidential manner. Employees are required to cooperate in any investigation. A timely resolution of each complaint will be reached and communicated to the parties involved. Retaliation against any employee for filing a complaint or participating in an investigation is strictly prohibited. An employee or manager found to have engaged in harassment of another employee or retaliation will be subject to appropriate disciplinary action, up to and including termination.

## No Retaliation Policy

Retaliation against individuals for exercising their rights under any of our policies is strictly prohibited and is a violation subject to disciplinary action up to and including termination. This includes any retaliation for an employee inquiring about rights under a policy, reporting or complaining about possible violations, or assisting in a complaint investigation.

## Smoking Policy

In compliance with New York State Law and in consideration of employee preferences, smoking is prohibited inside all Town facilities and vehicles. All employees, residents and other visitors are expected to comply with this policy, and employees who violate it may be disciplined up to and including termination. Employees smoking outside of the building must refrain from smoking near any of our property entrances or exits.

## Substance Abuse Policy

To help provide a safe and substance-free work environment for our employees and others who come in contact with the Town, to safeguard the Town's property, and to ensure efficient operations, a policy of maintaining a workplace free of illegal drugs and alcohol is set forth below.

As used in this policy, the term "illegal drugs" includes all controlled substances under federal or state law not prescribed for current personal treatment by a licensed medical professional, and all other substances not prescribed for the employee by a licensed medical professional, the use of which can create adverse effects on a person's physical, emotional or mental state, including, but not limited to, all types of narcotics, hallucinogens, depressants and stimulants. "Controlled Substances" are defined as those drugs listed in Schedules I through V of Section 202 of the Federal Controlled Substances Act, 21 U.S.C. 812, and include, but are not limited to, cocaine (including "crack" and other cocaine derivatives), morphine, codeine, phenobarbital, heroin, amphetamines, and many barbiturates.

All employees are prohibited from using, selling, purchasing, dispensing, distributing, possessing, or manufacturing alcohol or illegal drugs, or attempting to do any such act, on the Town's property or while working for the Town, including in Town vehicles or during working hours, and from reporting to work or performing an assignment with alcohol or illegal drugs in their system. Further prohibited is the use, sale, possession, distribution, dispensation, formulation, manufacture or transfer of alcohol or illegal drugs on non-working time to the extent such use impairs the employee's work performance, the safety of the employee or of others.

Notwithstanding the foregoing, this policy does not prohibit the legal, off-duty use of cannabis products off the Town's premises. That said, employees are prohibited from performing Town work while impaired by the use of cannabis; meaning the employee manifests specific articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, or such specific articulable symptoms interfere with the Town's obligation to provide a safe and healthy workplace, free from recognized hazards, as required by state and federal occupational safety and health law.

This policy does not prohibit the possession and proper use of prescribed or over-the-counter drugs. If an employee is taking drugs prescribed by a physician, dentist or other licensed practitioner which could affect their ability to safely perform their job, they should consult with a practitioner or review dosing information to determine whether the medication could have an effect on their ability to safely perform their job. Employees shall report any work restrictions to their supervisor. An employee is not required to reveal the name of the medication or underlying medical condition. The Town will evaluate each situation on a case-by-case basis, consistent with the reasonable accommodation process. Any employee who cannot work safely and who does not advise the Town may be subject to disciplinary action.

The Town reserves the right to ensure compliance with this policy by requiring employees to submit to a substance test when there is reasonable suspicion to believe that the employee has reported to work impaired or is impaired while performing their job. This testing shall not include testing for marijuana. Additionally, any employee involved in an accident while driving or operating a Town vehicle or equipment will be subject to testing. A third-party vendor will conduct such testing. An employee's failure to cooperate with the testing process will result in disciplinary action, up to and including termination from employment.

Tests for alcohol shall be conducted only by Department of Health and Human Services certified laboratories. In accordance with federal regulations, the employee shall be permitted to be present to observe the sealing and tagging of specimen containers.

Upon notification from the testing facility regarding availability, the Town will notify the employee and ensure that the selected employee will report to the testing facility within two (2) hours of notification.

When an employee is called in to work on an overtime basis and declines to report due to an acknowledgement that they have consumed alcohol within four (4) hours of the call in, the employee shall not be required to report or be subject to any discipline.

All time spent administering an alcohol or drug test stemming from reasonable suspicion will be paid at the employee's regular rate of pay or overtime rate, if applicable, and shall include travel time.

Any employee who is not allowed to return to work while awaiting test results shall be entitled to use vacation or personal leave during the waiting period for test results and will be reimbursed for lost time should the test results prove negative unless the employee is off for other unrelated discipline or conduct.

The Town states that if a reliable and accurate testing procedure is developed relating to marijuana usage that can be utilized by law enforcement agencies to evaluate marijuana usage, the Town will amend this policy.

### **Referral, Evaluation and Treatment**

The Town shall make available an Employee Assistance Program capable of evaluating and resolving problems associated with the misuse of alcohol and use of prohibited drugs. The program shall include skilled substance abuse professionals, social workers or addiction counselors certified by the National Association of Alcoholism and Drug Abuse Counselors.

A leave of absence may be allowed by the Town for an employee's treatment on an in-patient or out-patient basis. While on leave of absence, the employee may use accumulated sick leave credits, vacation, personal leave, or other approved leave time up to the limits set forth in applicable laws, rules or regulations, including any discretionary leave rights. Otherwise, the leave of absence shall be without pay. Nothing herein shall be construed to diminish any rights which may apply under the ADA, FMLA or other relevant laws.

Any follow-up testing shall be directed by the substance abuse professional.

All records relating to drug and alcohol tests of individual employees will be maintained in individual files separate from the employee's personnel file. To the extent possible, all records shall be kept confidential.

### **Disciplinary Procedure for Violation of Substance Abuse Policy**

If violations of the policy contained herein occur, the following disciplinary actions will take place:

**First Offense** – For violations not involving an accident, safety violation or other workplace safety, removal from a safety-sensitive position for twenty-four (24) hours and a written warning. For incidents involving accidents, safety violations and other workplace safety, a ten (10) calendar day suspension without pay.

**Second Offense** – Twenty-One (21) calendar day suspension without pay.

**Third Offense** – Termination.

In the event an employee tests positive for drug or alcohol use as a result of reasonable suspicion or a post-accident test, the Town reserves the right to initiate disciplinary action for the underlying conduct which gave rise to the test. In circumstances involving safety violations, accidents involving personal injury or other workplace safety, the Town reserves the right to move directly to discipline up to and including termination.

# Vehicle Policy

The Town of Orchard Park sets forth the following statement regarding the use of Town owned vehicles or personally owned vehicles operated in the performance of Town assigned duties. Department managers are responsible for communicating this policy within their departments.

This policy excludes the Town of Orchard Park Police Department. However, the first paragraph under Use of Assigned Vehicles does apply for the Police Chief and the Police Captains.

No person will be allowed to operate a Town owned vehicle unless the individual is a Town of Orchard Park employee and possesses and maintains a valid appropriate New York State Operator's license. Under no circumstances shall anyone who is not a Town employee operate any Town vehicle, except for authorized maintenance personnel and others as necessary in the best interest of the Town.

Town vehicles and vehicles rented on behalf of the Town may only be used for Town business, unless authorization for personal use has been granted in advance by the Town Supervisor.

Employees operating Town vehicles are responsible, prior to operating the vehicle, to check the necessary fluid levels for proper operations in accordance with the vehicle maintenance schedule.

Smoking and the use of any tobacco products are prohibited in all Town owned vehicles.

To allow quick access to all Town owned vehicles in the event of an emergency or an urgent situation, we have installed Global Positioning System (GPS) devices on these vehicles.

It is the responsibility of the department manager to notify the IT department when a vehicle is reassigned or a vehicle is no longer in use, allowing the removal of the GPS system.

## **USE OF ASSIGNED VEHICLES**

Town vehicles are assigned to specific departments and may be designated to certain individuals. The Police Chief, Police Captains and the Water, Sewer and Lighting Crew Chief will have a vehicle assigned to them and may take their vehicles home should they be required to attend to an urgent situation. The use of these vehicles when off duty is limited to commuting to and from work and when attending meetings outside of normal working hours as a representative of the Town. Assigned vehicles for personal use is prohibited.

The Town Engineer, Highway Superintendent and Deputy Highway Superintendent will have Town vehicles assigned to them to be used during the day or evening for Town business only. These vehicles must be kept in the parking lot of the Town property where the designated department is located when not in use. These assigned vehicles may not be used to commute to and from work.



Employees operating an assigned Town vehicle may only allow other Town employees in the vehicle as necessary to complete the duties of their positions. An exception to this is when there is an emergency or when trying to assist Town residents.

Employees assigned to a Town vehicle will be responsible to see that the proper maintenance is performed on the vehicle.

The Town owned vehicles that have been designated to certain departments are to be used to perform their duties. When not in use for Town business, these vehicles must be kept in the parking lot of the Town property where the designated department is located. These vehicles should not be removed to be used for personal business or for traveling to and from work. Under no circumstances, except as stated above, should anyone who is not a Town employee ever be in one of these vehicles.

Departments with vehicles assigned to them for use by multiple users must maintain a daily log by vehicle showing the driver, date, time out and time back. The logs must be forwarded to the Supervisor's Assistant at the end of each week.

### **USE OF PERSONAL VEHICLES FOR TOWN BUSINESS**

Town employees who are required and authorized by their department managers or the Town Supervisor to utilize their own personal vehicle for Town business assume and will provide liability insurance for such vehicle, unless provided otherwise in an applicable collective bargaining agreement.

Employees not assigned a Town vehicle who need transportation for Town business must see if there is a Town vehicle available for their use. Use of this vehicle is for Town business only.

Employees not assigned a Town vehicle and using their own vehicle for Town business will be reimbursed the current IRS rate for mileage related to Town business.

Should an accident occur while on Town business, involving an insurance payment with a deductible, the Town will reimburse the employee for the amount of the deductible when proof and a receipt of payment is provided to the department manager or Town Supervisor for approval, and appropriate insurance coverage was in effect.

Employees not assigned a Town vehicle and traveling out of Town are required to rent a vehicle for any trips requiring an overnight stay or longer if no Town vehicle is available.

Arrangements for rentals will be made by the Supervisor's Assistant. It is important to plan accordingly, allowing ample time to reserve a car.

### **VEHICLE OPERATION**

In compliance with New York State law, unless the vehicle is lawfully parked, use of a wireless telecommunications device while operating a Town of Orchard Park owned, leased, or rented vehicle or personal vehicle driven on Town of Orchard Park business is strictly prohibited. Texting and emailing while driving can be charged by law enforcement as a moving violation. Any such violation is a reportable offense. Exceptions to this requirement includes reporting traffic accidents, medical emergencies, serious road hazards, situations in

which the employee believes his/her personal safety is in jeopardy and the use of such a device is necessary to avert the perpetration of a criminal act.

Town of Orchard Park vehicle operation must be in compliance with all state laws including speed limits and driving responsibly.

Town of Orchard Park vehicles are to remain locked and parked in the assigned areas within the Town of Orchard Park when not in use.

### **VEHICLE MAINTENANCE**

Maintenance problems or concerns regarding Town of Orchard Park vehicles are to be documented and reported immediately to the department manager.

All Town of Orchard Park vehicles are to be maintained in accordance with the manufacturers recommendations. (Refer to the vehicle's owner manual).

Town of Orchard Park vehicles must be maintained in compliance with laws and must display current safety inspection stickers and license plates.

Department managers with assigned vehicles to their departments will be responsible for the vehicle maintenance.

### **VEHICLE OPERATION MONITORING**

The Town of Orchard Park vehicles are equipped with a Global Positioning System (GPS) which monitors vehicle operations including, but not limited to speed, location, idle times, and routes. Monitoring such usage permits the Town of Orchard Park to identify means by which to reduce fuel costs, increase driver safety, improve utilization efficiencies, and identify vehicle misuse. Because vehicle usage is monitored, Town of Orchard Park employees have no expectation of privacy while operating or riding as a passenger in a Town of Orchard Park vehicle.

To effectively monitor vehicle operations, the Town of Orchard Park will on a regular basis, access, execute and review certain reports from the GPS monitoring system for Town of Orchard Park vehicles. Initially a review of each vehicle/driver will be done over a three-month timeframe to identify erratic and/or unsafe driving habits. Thereafter, each quarter a vehicle/driver report will be reviewed. Drivers found to be in violation of driving laws will be monitored weekly. Required reports include, but are not limited to the location, monitoring

of idle times, speeding, hours of vehicle operation and proper functioning of the GPS device. Additionally, the Town of Orchard Park will regularly review GPS data to determine whether employees are operating Town of Orchard Park vehicles safely within reasonable proximity of assigned work locations, efficient travel routes are being utilized, work activities are being planned efficiently and reported activities correspond with the designated work hours and assigned duties.

When GPS monitoring reveals that an employee may have engaged in conduct in violation of this policy or acceptable business practices, the Town of Orchard Park shall evaluate all relevant information, including input from the employee. In determining whether corrective action is warranted, consideration shall be given to the nature, severity, and frequency of the violation(s). Disciplinary action will be administered for the following violations and is not limited to only these examples:

1. Reporting work hours that are inconsistent with GPS data;
2. Reporting work activities on work logs/reports that are inconsistent with GPS data;
3. Excessive idling which results in excess fuel usage;
4. Excessive speeding;
5. Use of a Town of Orchard Park vehicle beyond authorized work hours;
6. Use of a Town of Orchard Park vehicle for personal reasons;
7. Use of a Town of Orchard Park vehicle beyond the geographical limits required to perform assigned job duties.

Employees found to be operating a Town vehicle in a manner that could cause harm or create a hazardous situation may be required to complete a defensive driving course. The employee will be responsible for the cost of the course.

Employees are hereby notified that a “zero tolerance” approach will be taken and disciplinary action up to and including immediate termination will be administered for any identified attempt to remove, disable, or otherwise tamper with a GPS device installed on a Town of Orchard Park vehicle.

#### **DRIVING RECORDS/DRIVER’S LICENSE CHECK**

Employees who will be required to drive a Town vehicle or a personal vehicle in the normal course of business are required to complete a General Consent For Release of Personal Information Form which serves to permit the Town of Orchard Park to secure a copy of the employee’s driving record from the Office of Motor Vehicles. Such records will be obtained at the time of hire and on an annual basis to ensure all requirements are met to be authorized to drive. It is the responsibility of the department manager to obtain this information and provide it to the Supervisor’s Assistant.

Employees, with the exception of employees working in the Police Department are required to provide a copy of their driver’s license to the Supervisor’s Assistant. Employees possessing an out-of-state driver’s license at the time of hire will be required to complete an authorization allowing motor vehicle officials in their home state of residency to provide such information.

## **REPORTABLE EVENTS**

The following events must be reported to your department manager. Reporting is required regardless of the fault, injury, or damage.

1. All traffic accidents occurring in a vehicle owned, leased, or rented by the Town of Orchard Park on Town of Orchard Park business. This includes any incident in which the vehicle comes in contact with another vehicle, person, object, or animal.
2. Receipt of a citation or arrest for any moving violation when occurring in a vehicle owned, leased, or rented by the Town of Orchard Park.
3. Notification that the employee's driver's license is restricted, suspended, revoked or under threat of same for any reason, including but not limited to failure to pay court ordered child or spousal support.
4. Diagnosis of any physical, mental, or other medical condition which impairs the employee's ability to safely operate a vehicle or that could result in a suspension of driving privileges or the use of medications that cause drowsiness. Specific information regarding the impairment is not required. A physician's note with restrictions regarding the ability of the employee to drive is required. This information will be handled with appropriate concern for confidentiality and in compliance with prevailing law.

Any employee arrested and/or convicted for driving while intoxicated or under the influence of any substance, whether on or off duty, must report the arrest/conviction to his/her department manager.

## **REPORTING REQUIREMENTS**

All accidents occurring during regular work hours in a Town of Orchard Park vehicle while on Town of Orchard Park business must be immediately reported to the department manager. Accidents occurring after normal business hours must be reported at the commencement of the next business day.

All accidents occurring in a Town of Orchard Park vehicle while on Town of Orchard Park business shall be immediately reported to law enforcement.

All other reportable events as defined in the Reportable Events section of this policy must be reported to the department manager before close of business on the day of the event or the next business morning following the occurrence.

## **POST-ACCIDENT DRUG TESTING**

Any employee involved in a vehicle accident while operating a Town of Orchard Park vehicle on Town of Orchard Park business shall be required to submit to drug and alcohol testing if the accident involves circumstances giving rise to a reasonable suspicion that the accident may have involved the employee's drug or alcohol use and the employee's action or inaction may have been a causative factor.

"Reasonable suspicion" is a belief, based upon reliable, objective, and articulable facts derived from direct observation of specific physical and behavioral characteristics (behavior, speech, appearance, odor), which causes a prudent person to suspect that the employee has engaged in drug or alcohol use.

Only the designated appointed authority shall require an employee to submit to post-accident testing. Generally, this decision will be based upon the recommendation of a police officer and/or the department manager who have objectively and thoroughly reviewed the circumstances of the accident. The designated appointed authority will fully document the facts upon which the recommendation for testing is made.

When post-accident testing is required, a Town of Orchard Park representative shall transport the employee being evaluated to and from the testing site immediately following the accident and no later than 2 hours post-accident. Under no circumstance shall an employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.

### **HIGH-RISK DRIVERS**

Employees who drive or may be required to drive on official business must maintain safe, acceptable driving records or will be categorized as high-risk drivers and will not be allowed to drive a Town of Orchard Park vehicle.

Criteria that may indicate an unsafe and unacceptable record includes, but is not limited to:

- Three or more moving violations\* in a year,
- Three or more chargeable accidents within a year. Chargeable means that the driver is determined to be the primary cause of the accident through speeding, inattention, etc. Contributing factors, such as weather or mechanical problems, will be taken into consideration,
- Any combination of accidents and/or moving violations totaling three.

\* Violations include any ticket, charge, or other related law enforcement proceeding.

#### **High risk drivers are:**

Individuals having a single conviction, guilty plea, or plea or nolo contendere for operation a vehicle while intoxicated or under the influence of any substance, hit and run driving, vehicular homicide, negligent homicide, or reckless driving within the 12-month period immediately preceding the application for employment, check of driving record or latest conviction or plea;

Individuals who have three or more convictions, guilty pleas, or pleas of no context for moving violations within any twelve-month period. The twelve-month period is the twelve months immediately preceding the latest occurrence; and

Individuals determined by the designated appointed authority to be high risk drivers based upon information available from the employee, witnesses, records, reports and/or law enforcement officials following a reportable event as described above.

### **VIOLATION OF THIS POLICY**

If an event automatically disqualifies an employee from driving (i.e., suspension or revocation of driver's license), the designated appointed authority shall immediately terminate the employee's driving privileges until the reason for the disqualification is rectified.

Any employee who is unable to perform the routine job functions of his/her position due to the temporary or permanent loss of driving privileges may be removed from their classified

service position. Where possible, and in consideration of the overall interest of the Town of Orchard Park, job restructuring or employee reassignment to a position which does not require driving may be available. If no position is available that the employee is qualified to perform, the employee will be placed on layoff until the employee has been given back his/her driving privileges. The employee may use any earned, available PTO time during this period.

Employees operating Town vehicles for personal use in violation of this policy will be required to reimburse the Town the current IRS rate for all mileage recorded for that trip.

All failures to comply with the requirements of this policy will be viewed as serious safety violations. Employees in violation of this policy will be subject to disciplinary action up to and including termination.

### **EXCEPTIONS**

Exceptions within the law to this policy may be approved by the Town Supervisor if determined to be in the best interest of the Town of Orchard Park.

## **Weapons Policy**

To ensure the safety of all employees, the Town does not allow the possession or use of any weapons on any Town owned property, leased, or controlled by the Town, including anywhere that Town business is conducted, such as resident locations. Weapons include, but are not limited to, guns, knives, or swords with blades over four inches in length, explosives, and any chemical whose purpose is to cause harm to another person. Regardless of whether an employee possesses a concealed weapons permit (CCW) or is allowed by law to possess a weapon, weapons are prohibited on any Town property.

Employees who violate this policy will be subject to disciplinary actions, up to and including termination. In addition, failure to adhere strictly to this policy will necessitate disciplinary action for the guilty person and the possibility of arrest under Section 265.01(3) of the Penal Law of the State of New York.

## **WORK RULES**

The Town endeavors to maintain a positive work environment. Every employee plays a role in fostering this environment. The following behavior, while not inclusive, is in violation of our rules and/or policies and will result in disciplinary action up to and including termination.

- Violation of any Town policy or rule including, but not limited to, those stated in this manual;
- Any violation of the Town's Information Technology Use & Security Policies;
- Obtaining employment on the basis of false or misleading information;
- Stealing, removing, or defacing Town property or a co-worker's property
- Disclosure of confidential information;
- Completing another employee's time records;

- Dishonesty, falsification and/or lying;
- Violation of safety rules and policies;
- Violation of the Town's Workplace Violence Policy including fighting, threatening, or disrupting the work of others;
- Use of foul or inappropriate language;
- Use or possession of alcoholic beverages or illegal drugs while at work or on Town business;
- Falsification of any employment or other work-related documents;
- Insubordination; refusal to follow lawful directions; disrespect towards management or other employees;
- Loitering or loafing during work time, or leaving a work area without management's permission;
- Stopping work prior to the end of the scheduled day without management's permission;
- Gambling on Town property and/or using Town systems for gambling;
- Wasting work materials;
- Performing work for an organization other than the Town during working hours;
- Failure to follow established procedures;
- Being under the influence of illegal drugs and/or alcohol during working hours;
- Absenteeism, tardiness, or failure to follow proper attendance procedures;
- Use or possession of alcohol on Town property or coming to work under the influence;
- Sale or distribution of illegal drugs;
- Working unapproved overtime or working off the clock;
- Violation of FDA, health, safety or fire codes;
- Leaving the premises during a scheduled shift without permission;
- Failure to report any injury or accident to your manager immediately;
- Failure to submit medical information concerning physical ability to perform; essential job functions as required;
- Posting notices or material on Town property, including bulletin boards, without management authorization;
- Fund raising or selling items or services on Town premises without the authorization of management;
- All forms of solicitation unless authorized;
- Making unauthorized statements to the press or other media;
- Use or possession of weapons;
- Tampering with any safety equipment;
- Sleeping on the job;
- Failure to follow time documentation procedures for payroll;
- Failure to follow designated schedule, including lunch and breaks;
- Punching in or out for another employee or having another employee punch in or out for you;
- Conducting personal business or business for another organization during work time and/or using business property/equipment for personal business.

# Attendance & Punctuality

To maintain a safe and productive work environment, the Town expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees. In the rare instances when you cannot avoid being late to work or are unable to work as scheduled, you must notify your manager as soon as possible in advance of the anticipated tardiness or absence.

Hourly employees calling off work without prior authorization will be required to use available PTO time for the shift.

Employees absent for three consecutive days or more due to illness or injury must bring a physician's note allowing a return to work including any restrictions. Employees who fail to report to work for three consecutive days without notification to the Town will be considered to have resigned.

## DISCIPLINARY PROCEDURES

In the interest of helping our employees succeed, the Town has established progressive disciplinary steps to give individuals a chance to correct their actions before termination occurs. The Town will use these procedures in some, but not all, circumstances and reserves the right to terminate an employee without progressive discipline under circumstances deemed appropriate solely at the Town's discretion. If the Town chooses to proceed with progressive discipline, the progressive disciplinary steps are:

Counseling:	First step to be sure employee understands the issue
Step 1	Verbal Warning (Documented)
Step 2	Written Warning Notice
Step 3	Termination

This procedure is used in common disciplinary problems such as performance, attendance, punctuality, insubordination, and similar situations. Certain violations of Policies, Rules or Codes of Conduct may result in immediate termination. The Town does not guarantee that one step will necessarily precede another. Discipline for all behaviors will be combined when considering the next step in the progressive disciplinary procedure.

**Examples:** Disruption: Counseling  
Unauthorized absence: Verbal warning  
Insubordination: Written  
Unauthorized absence: Termination



Incidences of arriving late for work, leaving early, or calling in will be considered unauthorized absences. Two unauthorized absences will result in a verbal warning, a third unauthorized absence will result in a written warning, the fourth unauthorized absence will result in termination.

Employees covered by Civil Service Law Section 75 shall be disciplined in accordance with the procedures contained therein.

## **ADDITIONAL INFORMATION**

### **Closings Due to Unexpected Disruptions**

At times, emergencies such as severe weather, fires, or power failures, can disrupt operations. In extreme cases, these circumstances may require the closing of our offices and buildings. In this situation, management will contact you as soon as possible. If you are scheduled to work on a day when operations are officially closed due to emergency conditions, you may use any available PTO time.

We realize that bad weather or hazardous commuting conditions may occasionally make it impossible for employees to report to work or to arrive on time. The safety of our employees is very important to us. However, you are expected to make a diligent effort to report to work when conditions have improved. If you determine that you are unable to report to work because of the conditions, inform your manager as soon as possible. You may use any available PTO time for your absence, if you choose, you may be off without pay. This time off will be authorized.

If a state of emergency or driving ban is issued after an employee has reported to work, non-essential personnel may be sent home depending on road and other conditions. Employees asked to leave will be paid for (4) hours if sent home before completing (4) four hours of the shift. Employees completing more than four hours of their shift will be paid the balance hours of their normal shift, to a maximum total of (8) hours for the day. If the travel ban is issued or is still in effect before the employee is expected to come into work, the employee may be off with no pay or may opt to use available PTO time. Travel bans in your hometown or en route to your work location must be observed.

### **Media Inquiries**

The Town Board will designate certain Town employees to serve as official Town spokespersons and primary media contacts. All media inquiries must be referred to the Town Supervisor. Employees may not provide any information or respond to media requests without specific or prior Town Supervisor or Town Board approval.

An employee wishing to write and/or publish an article, paper, or other publication on behalf of the Town must first obtain approval from the Town Board.

# Confidential Information

During the course of work, an employee may become aware of confidential information about the Town's business or its citizens. An employee may also become aware of similar confidential information belonging to the Town's clients. It is a violation of our code of conduct to divulge any confidential information. An employee who improperly copies, removes (physically or electronically), uses, or discloses confidential information to anyone outside of the Town may be subject to disciplinary action up to and including termination.

# Ethics Code of Conduct

Employees must never use their positions within the Town, for private financial gain, to advance personal financial interests, to obtain favors or benefits for themselves, members of their families or any other individuals, corporations, or business entities.

# Personnel Records and Administration

Keeping your personnel file current is important for proper pay, deductions, benefits, and other matters. To ensure that you and your family receive the correct coverage and benefits, please keep the information in your personnel file updated. If you have a change in any of the following information, please be sure to notify payroll as soon as possible:

Legal name

Home address

Telephone number

Person to call in case of emergency

Number of dependents

Marital status

Change of beneficiary

Military or draft status

W-4 Form – when you have a change in the number of dependents or marital status

As an active employee, you may make a request to human resources to review your personnel file. Documents may not be removed from the file. Records deemed to contain sensitive or confidential plans or similar information may be excluded from the inspection. All inspections must be conducted in the presence of our human resources or payroll representatives.

All medical records, if any, will be kept in a separate confidential file. Medical records will not be disclosed to anyone inside or outside of the Town Hall without your permission, unless required for investigations or legal proceedings.

Only management members who have an employment-related need-to-know reason may inspect the personnel files.

All requests from outside the Town for personnel information concerning applicants, current and former employees, are to be referred to our human resources or payroll representatives.

## Pregnancy Accommodation

If requested by the employee and consistent with state law, the Town will provide reasonable accommodations to female employees related to pregnancy, childbirth, or related medical conditions, to the extent the accommodation can be made without imposing an undue hardship on the business. The Town may require the employee to provide a certification in connection with a request for reasonable accommodation.

If leave is provided as a reasonable accommodation, such leave may run concurrently with any other leave where permitted by state and federal law.

Additionally, upon return from a pregnancy leave, the Town will comply with the federal and state laws regarding nursing mothers. The Town will allow a reasonable unpaid break or permit you to use a paid break to express breast milk in a private area for up to three years after the birth of a child.

## References

The Town will respond to written reference requests by providing general information concerning the employee such as date of hire, date of separation and positions held. All requests for employee references must be referred to the Payroll Specialist. Employees are prohibited from responding to reference requests.

## Searches

To protect our property and to ensure the safety of all employees, and visitors, we reserve the right to conduct personal searches consistent with state law, and to inspect any packages, parcels, purses, handbags, briefcases, lunch boxes or any other possessions or articles carried to and from our property. In addition, we reserve the right to search any employee's office, desk, files, locker, equipment or any other area or article on our premises. In this regard, it should be noted that all offices, desks, files, lockers, equipment, etc. are the property of the Town and are issued for the use of employees only during their employment.

## Separation of Employment

Separation of employment is an inevitable part of personnel activity. Below are examples of some of the most common circumstances under which employment is ended:

- Resignation - voluntary employment separation initiated by an employee, (two weeks' notice requested)
- Discharge/termination - involuntary employment termination initiated by the Town,
- Layoff - involuntary employment termination initiated by the Town,
- Retirement - voluntary employment termination initiated by the employee, meeting age, length of service, and any other criteria for retirement. Employees who plan to retire must notify the NYS Retirement System in advance. Notice to the Payroll Specialist is also required.

The Town will generally schedule exit interviews at the time of employment separation. The exit interview will afford an opportunity to discuss such issues as employee benefits, and the return of Town owned property including keys, security cards, phones and computers. Since employment with the Town is based on mutual consent, both the employee and the Town have the right to terminate employment at will, with or without cause, at any time.

PTO time may not be used to extend the separation date of employment. Once notice has been given, employees may not use PTO time.

Should you decide to leave your employment with us, we ask that you provide management with 2 weeks' notice. Any property issued to employees, such as computer equipment, phones, keys and business credit cards must be returned at the time of employment separation. Employees will be responsible for any lost or damaged items.

The Town does not provide a "letter of reference" to former employees. Generally, we will confirm upon request, our employees' dates of employment, salary history and job title.

Please refer to your Medical Plan Documents for information regarding termination or continuation of benefits.

## Solicitation & Distribution

To avoid distractions, solicitation by an employee of another employee is prohibited while either employee is engaged or should be engaged in performing their work for the Town. Solicitation of any kind by non-employees on Town premises is prohibited at all times.

Distribution of advertising materials, handbills, printed or written literature of any kind in working areas of the Town is prohibited at all times. Distribution of literature by non-employees on Town premises is prohibited at all times.

# Town of Orchard Park

## Acknowledgement of Personnel Manual

This employee personnel manual describes important information about the Town of Orchard Park policies, rules and benefits and I understand that I should consult management regarding any questions not answered in this manual. I have entered into my employment relationship with the Town voluntarily and acknowledge that there is no specified length of employment. Accordingly, either the Town or I can terminate the relationship at will, with or without cause, at any time, so long as there is no violation of applicable federal or state law.

Since the information, policies, and benefits described here are necessarily subject to change, I acknowledge that revisions to this manual may occur, except to the policy of employment-at-will. All changes will be communicated through official notices, and I understand that revised information may supersede, modify, or eliminate existing policies. Only the Town Board has the ability to adopt any revisions to the policies in this personnel manual.

Furthermore, I acknowledge that this manual is neither a contract of employment nor a legally binding document. I have received this personnel manual, and I understand that it is my responsibility to read and comply with the policies contained in this manual and any revisions made to it.

---

Employee's name (please print)

---

Employee's signature

---

Date