



# **TOWN OF TYNGSBOROUGH**

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# **TOWN OF TYNGSBOROUGH PERSONNEL POLICY BINDER**

# TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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# TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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## TOWN OF TYNGSBOROUGH

### PERSONNEL POLICY

#### SECTION 1: DEFINITIONS

**1.1:** Administrative Authority – The elected or appointed official or board having jurisdiction over a function or activity.

**1.2:** Administrative Orders – Orders issued by the Board for the purpose of Policy clarification, and consistency in implementation and enforcement as described in SECTION 4.

**1.3:** Appointing Authority – The authority granted the power to appoint employees for a particular board or department by the Town or by State Statute.

**1.4:** Day – A “day” shall be defined as one-fifth (1/5) of the average number of hours worked per week.

An Employee who works 20 or more hours per week and who is not scheduled to work on a scheduled holiday is to receive Holiday comparable time at one-fifth of their average work week. The time is to be calculated according to the following methods.

An hourly employee that works less than 40 hours per week but 20 or more per week shall have “a day” defined as one-fifth (1/5) of the average number of hours actually worked per week during the preceding calendar year or, in the case of a new employee, during the period employed by the Town.

A Salaried employee that works less than 40 hours but 20 or more per week shall have “a day” defined as one-fifth of the scheduled work week.

Example:

Employee works 25 hours per week.

Benefits would be granted in the following manner:

Holiday time:	5	hours
Sick Leave monthly:	5	hours
Two weeks annual vacation:	50	hours

**1.5:** Board – The Personnel Board as described in SECTION 4.

**1.6:** Department – Any department, board, committee, commission, or other employing authority of the Town subject to this Policy.

**1.7:** Department Head – The officer, board, committee or other body having immediate supervision and control of a Department. In the case of a Department serving under the supervision and control of the Board of Selectmen, the officer, board, committee or other body immediately responsible to the Board of Selectmen for the Administration of the Department.

**1.8:** Emergency Employee – A noncompetitive appointment to a position for a period of time, as determined with bi-weekly reviews by the Plan Administrative to prevent stoppage of public business or hazard or serious inconvenience to the public.

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**1.9** Employee – A Permanent employee of the Town occupying a position of employment subject to this Policy.

**1.10:** Employment – Time during which a person is actively employed or is absent from active employment by reason of being granted an approved leave.

**1.11:** Orders – See Administrative Orders.

**1.12:** Plan – This Town of Tyngsborough Personnel Policy-and all Administrative Orders issued as described in ARTICLE VI.

**1.13:** Plan Administrator – Town Administrator/Manager of Tyngsborough or the Administrator/Manager’s designee.

**1.14:** Regular Permanent Full-time Employee – Employee regularly scheduled to work at least 30 hours per workweek for fifty-two (52) workweeks per fiscal year.

**1.15:** Regular Permanent Part-time Employee – Employee regularly scheduled to work no less than twenty (20) or more than thirty (30) hours per work-week for no less than ten (10) consecutive months in any given year. Part-time call firefighters may work less than an average of 20 hours per week.

**1.16:** Supplemental Part-Time – Employees regularly scheduled to work less than 20 hours per workweek.

**1.17:** Temporary Employee – Person employed on a full-time or part-time basis for a specific short and defined period of time not to exceed six consecutive months in any one fiscal year, includes seasonal employees.

**1.17:** Call Firefighters – May work more than 20 hours per week but must average less than 20 hours per week during a six (6) month look-back period.

**1.18:** Town – The Town of Tyngsborough.

**1.19:** Year – Unless otherwise provided by this Policy, all references to annual, yearly, or year in this Policy shall refer to fiscal year commencing on July 1 and ending on the next following June 30.

## **SECTION 2: APPLICATIONS**

This Policy shall apply to all Town Departments, and to all positions of all employees in the service of the Town, whether full or part-time, temporary, seasonal, special or any other type of employment other than:

- a) Those positions filled by popular election; provided, however, that the Administrator/Manager shall make recommendations prior to the Annual Town Meeting relative to salaries for elective positions.
- b) To the extent that the terms of any collective bargaining agreement or employment contract entered into by the Board of Selectmen conflict with any provision of this article or personnel policies adopted pursuant thereto, the provisions of the collective bargaining agreement or employment contract entered into by the Board of Selectmen shall prevail.

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- c) Those positions under the direction and control of the School Committee.
- d) Those positions under the direction and control of the Police Chief known as:
  - Dispatcher, part-time
  - Reserve/Intermittent Police Officer
  - Administrative Assistant to Chief of Police
  - Matrons

### **SECTION 3: EFFECTIVE DATE**

This Policy shall take effect and be in force from and after the earliest date allowed by law and shall replace all other Policies in conflict herewith, to the extent allowed by law.

### **SECTION 4: THE PERSONNEL BOARD**

**4.1:** There is a Board called the Personnel Board. The Board shall consist of three members of the Board of Selectmen. The Plan Administrator shall serve ex-officio but shall have no vote on any matter coming before the Board.

**4.2:** The Board shall establish its own rules of procedure and shall keep a record of its official actions, which shall be kept open for public inspection and on file with the Town Clerk, and, subject to appropriation may make such expenditures as may be necessary for the performance of its duties.

**4.3:** Two members shall constitute a quorum for the transaction of the business of the Board and the affirmative vote of two members shall be necessary for any official act of the Board.

### **SECTION 5: DUTIES OF THE BOARD**

#### **5.1: Personnel Administration**

The Board shall prepare salary recommendations commensurate with comparable communities, individual experience and available funding appropriations

Any board or committee or department may request the Plan Administrator, with the approval of the Board, to study and advise on specific pay and classification matters.

All officers, boards, departments, committees and employees shall co-operate with the Plan Administrator and the Board in providing the information necessary for the proper preparation of salary recommendations. Salaries shall operate within the meaning of Section 108A and 108C of Chapter 41 of the General Laws, as amended.

#### **5.2: Compliance Advice**

The Plan Administrator shall advise all departments, officers and officials as to compliance with applicable fair employment practice laws and other applicable state and federal laws and regulations.

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### **5.3: General Advice**

The Plan Administrator shall advise the Town Departments regarding any matters pertaining to personnel.

## **SECTION 6: ADMINISTRATIVE AUTHORITY**

### **6.1: Administration**

The Plan Administrator is hereby authorized to administer the provisions of the Plan, except for such duties as may be assigned by statute, or negotiated contract to other town officers, boards, committees, or commissioners.

### **6.2: Plan Administrator**

The Plan Administrator shall make recommendations to the Board on all Personnel business matters.

### **6.3: Procedural Rule and Regulations**

The Board is hereby authorized to issue and adopt uniform procedural rules and regulations, and to amend them from time to time, to further aid and assist in the performance of Plan Administrator's duties and responsibilities. Said rules and regulations shall be consistent and compatible with all other provisions of law and the provisions of this Policy. Employees shall be notified in writing seven (7) days prior to any changes taking effect.

### **6.4: Administrative Orders**

The Plan Administrator may from time to time issue, amend or revoke Orders for the purpose of giving effect to the provisions of this Policy, and for the purpose of procedure, clarification and consistency in administering and enforcing. Each such Order shall be numbered in sequence and the Administrator shall maintain in a file of all such Orders issued with the Town Clerk, which file shall be open to public inspection.

## **SECTION 7: REVIEW OF PLAN**

**7.1:** The Board shall, from time to time of its own motion but in any event at intervals of no more than three years, review the Plan. It shall keep informed as to pay rates and policies in other Massachusetts municipalities considered by the Board to be comparable to the Town so as to be able to recommend to the Town any action, which the Board deems desirable to maintain a fair and equitable pay level.

**7.2:** The Board shall make an annual report to the Town, including recommendations on any matters, which the Board deems appropriate to be considered by the Town.

**7.3:** If at any time the Board is of the opinion that changes in this Policy are desirable, it shall be responsible for taking the necessary action to put the changes into effect in accordance with the provisions governing amendments as set forth in Section 8.

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## SECTION 8: AMENDMENTS

**8.1:** This policy must be amended in accordance with the Town's Personnel Bylaw, Article XLIV.

**8.2:** The Board of Selectmen will hold a public hearing at least two (2) weeks and not more than two (2) months before the final adoption and/or revision. This Policy may be amended by a 4/5ths majority vote of the Board of Selectmen after holding a public hearing to discuss the changes and allow for public input. Where Amendments to this Policy are proposed by persons or authorities other than the Board, the Board shall review and consider the proposed amendment within thirty (30) days.

**8.3:** The Board may, by order, establish a temporary salary for any position for which the nature and duties of which are temporary or subject to material change, such position to be in effect until the end of the fiscal year.

**8.4:** The Board may periodically adjust the salary of an existing position to ensure it remains in line with industry standards and in order to attract or maintain qualified individuals.

**8.5:** The Board shall consider the salary recommendation of the Department Head or other Administrative Authority, supported by evidence of exceptional circumstances satisfactory to the Board. The Board may also make such other variances in compensation as it considers necessary for the proper functioning of the services of the Town.

**8.6:** No action of the Board under the preceding subparagraph or under any other provision of the Policy may be construed as authorization to spend money for salaries or wages for Employees in addition to that which has lawfully been appropriated at Town Meeting or which is otherwise lawfully available for that purpose.

**8.7:** Except as otherwise specifically provided in collective bargaining agreements, or by vote of the Town, amendments to this Policy shall be effective as of July first of the calendar year in which voted.

## SECTION 9: PERSONNEL RECORDS

**9.1:** The Plan Administrator, Town Accountant and Department Heads shall keep such records of the employees as the Board may require. The Human Resources Department shall also check on matters covered by the Plan and shall bring any deviations from the Plan's provisions to the attention of the Plan Administrator. The Board shall keep such records of its own as it considers appropriate.

**9.2:** Except as otherwise provided by law, the Board shall have access to all facts, figures, records and other information related to Employees and the same shall be furnished forthwith by any such Department whenever so requested by the Board in such form as the Board may require.

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## SECTION 10: GRIEVANCES

There is hereby established a grievance procedure available to any Employee who has successfully completed the applicable probationary period and who shall have a dispute with his or her Department Head, Appointing Authority or other supervisory body, arising out of the actions of such supervisor. This grievance procedure is also available to any Department Head, whose rights under this Policy have, in his or her opinion, been prejudiced in any way.

**10.1:** In the case of an Employee other than a Department Head: The Employee shall take up a grievance orally with the Department Head. If the Employee wishes to have the grievance reviewed, a grievance shall be submitted in writing to the Department Head. The Department head shall reply in writing within (7) days.

**10.2:** If the Department Head's response is not to the Employee's satisfaction, the Employee may send, within seven (7) days of the date of such response, a copy of the grievance to be given to the Plan Administrator. After receiving any grievance the Plan Administrator shall hold a hearing at which the relevant parties are present. The Plan Administrator's decision shall be rendered within seven (7) days of the hearing. If the Employee/Department Head is not satisfied with the finding of the Plan Administrator, the matter shall revert to the Personnel Board.

**10.3:** After receiving any grievance, the Board shall hold a hearing within twenty (20) business days at which the relevant parties are present. The Board's decision shall be rendered within (20) business days of the hearing, or final hearing if the original hearing was continued. If the Employee/Department Head is not satisfied with the finding of the Board, the matter shall revert to the Appointing Authority for a final decision within fourteen (14) days.

**10.4** Any grievance procedure set forth in a collective bargaining agreement shall take precedence over and supersede the grievance procedure established by this Policy.

## SECTION 11: HOLIDAYS

**11.1:** The following holidays shall be recognized by the Town on the day which they are legally observed in the Commonwealth of Massachusetts and these days employees shall be excused from all duty.

New Year's Day  
Dr. Martin Luther King, Jr. Day  
President's Day  
Patriot's Day  
Memorial Day  
July 4<sup>th</sup> Day  
Labor Day

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Columbus Day  
Veteran's Day  
Thanksgiving Day  
Day after Thanksgiving  
Christmas

The above holiday schedule may be altered by the Board of Selectmen at the beginning of the calendar year provided, that an equivalent number of paid holidays is granted.

**11.2:** Regular Permanent Part-Time and Regular Permanent Full-Time Employees will receive holiday compensation at a rate equivalent to one-fifth (1/5) of their regularly scheduled hours per week or, compensation for normally scheduled hours that fall on a recognized holiday. Total weekly compensation, including holiday compensation, will not exceed the employees' regular weekly compensation.

**11.3:** If an employee is required to work on a holiday, the employee shall record their hours accordingly and be afforded a floating holiday to be used within one (1) calendar year.

**11.4:** Any employee on approved vacation or sick leave shall not be charged for leave time.

**11.5:** For departments that are scheduled for 24/7 emergency services, holiday pay shall be as follows:

- a) Full-time employees who's regular schedule falls on a holiday are expected to work their regularly scheduled hours, unless time off is approved in advance by the head of the department.
- b) Full-time employees that are scheduled to work on a holiday will, in addition to the regular pay, receive the amount equal to one and one half (1 ½) times their regular rate of pay for hours worked.
- c) Part-time employees who are scheduled to work on a holiday will receive time and one half (1 ½) for hours worked.
- d) Full-time employees who are not scheduled to work on the holiday will receive Holiday pay equal to one fifth (1/5) their average weekly scheduled hours; in addition to pay for hours worked.
- e) All holidays will be recognized on the day they are legally observed by the Commonwealth of Massachusetts, except Christmas and New Year's Day. On Christmas and New Year's Day, holiday pay and overtime shall be based on the date of the actual holiday, not the observed holiday. For example, if Christmas or New Year's Day falls on a Sunday, and is observed on a Monday, the employee working on Sunday will receive the benefits of holiday pay.

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## SECTION 12: MATERNITY LEAVE AND PARENTAL LEAVE

Employees, upon request, shall be granted up to 12 work-weeks of unpaid leave in accordance with the Family Medical Leave Act.

## SECTION 13: SICK LEAVE

**13.1:** Employees shall earn one (1) day of sick leave with pay for each calendar month of service not to exceed twelve (12) days per fiscal year.

**13.2:** Permanent part-time employees shall earn one (1) day of sick leave which is one-fifth (1/5) of the average number of hours actually worked per week during the preceding calendar year or, in the case of a new employee, during the period employed by the Town.

**13.3:** If employed prior to the 16th of the month, sick leave shall accrue from the first of the month. If employed on or after the 16th of the month, sick leave shall accrue the first day of the next month.

**13.4:** Accruals will be earned as of the last working day of each month and will be posted accordingly.

**13.5:** Unused sick leave will accumulate from year to year to a maximum of (90) days. The Town shall annually, during the month of July, notify all employees of the total amount of the employee's accrued sick leave as of June 30 of the previous year.

**13.6:** Evidence of disability may be required by the Plan Administrator from the employee for any sick leave of three (3) days or more. If the cause of the sick leave is not substantiated to the satisfaction of the Plan Administrator, such absence will not be paid as sick leave, and absence will be considered unauthorized leave.

**13.7:** Upon termination, all accumulated sick leave will be forfeited.

## SECTION 14: VACATION

**14.1:** Vacation days will be accrued at a rate equal to one-twelfth (1/12) of the yearly entitled vacation time per month. Vacation time can be borrowed against future non-accrued vacation time not to exceed ten (10) days. At the time of resignation, retirement, or termination, arrear vacation time will be subtracted from any final payment to the employee.

The employee shall be granted vacation according to the following table:

<u>Length of Service</u>	<u>Amount of Vacation</u>
Less than 1 year	5/6 day per month
1 year but less than 5	10 days per year
5 years but less than 10	15 days per year
10 years +	20 days per year

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**14.2:** When hiring salaried exempt employees, the Town may credit prior municipal experience of such new hires in offering the initial number of vacation weeks that can be taken. New hires cannot be initially awarded more than four (4) weeks of vacation and must have at least five (5) years of municipal experience, or comparable private sector experience, to qualify for such benefit.

**14.3:** Permanent Part-Time Employees shall earn vacation according to the above table in the following prorated manner: One (1) day of vacation shall mean one-fifth (1/5) of the average number hours actually worked per week during the preceding year, or in the case of a new hire, during the period of time employed by the Town.

**14.4:** If employed prior to the 16th of the month, vacation leave shall accrue from the first of the month. If employed on or after the 16th of the month, vacation leave shall accrue from the first day of the next month

**14.5:** Vacation time may not be cumulative from year to year. An employee may carry over up to 10 vacation days per year, which must be used by June 30th of the following fiscal year; the total vacation carry over in any year can't exceed 10 days. The Town shall annually, during the month of July, notify all employees of the total amount of the employee's accrued vacation leave as of June 30 of the previous year.

**14.6:** All employees eligible for vacation days shall take their vacation leave in accordance with a schedule mutually agreed upon by the employee and the supervisor.

### **SECTION 15: RESIGNATION OF EMPLOYMENT**

**15.1:** Employees must give written notice to their supervisor prior to termination.

**15.2:** Any employee who does not report to work for three consecutive working days without notification to their supervisor, will be considered a voluntary resignation without notice.

**15.3:** Employees in appointed positions: If the employee is not reappointed at the end of his/her term, he/she will receive all unused accrued vacation time upon termination.

### **SECTION 16: FUNERAL LEAVE**

**16.1:** Employees shall be eligible for up to three (3) day's consecutive leave with pay for the purpose of making arrangements and attending the funeral of members of their immediate family. The term "Immediate Family" as used in this paragraph shall mean the following: parents and parents in-law, sister, brother, sister in-law, brother in-law, spouse, child, and grandparents, of the employee or the employee's spouse.

**16.2:** Employees shall be eligible for up to one (1) day of leave with pay for the purpose of making arrangements and attending the funeral of members of their non-immediate family: aunt, uncle, niece, nephew, cousin, and all other relatives of the employee or of the employee's spouse.

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## **SECTION 17: PERSONAL LEAVE**

Employees shall be eligible for three (3) days of paid personal leave per year for the purpose of attending the personal business which unavoidably conflicts with the employee's work schedule. Personal day shall not be accrued and must be taken prior to June 30 of each fiscal year. Unused personal days will be forfeited. Use of a personal day shall require twenty-four (24) hours' notice to and approval from the Town Administrator/Manager. Approval for use of such leave will not be arbitrarily or capriciously denied. Such notice may be waived on an individual basis.

## **SECTION 18: FAMILY AND MEDICAL LEAVE**

Family and Medical Leave will be granted to all eligible employees as provided in the Family Medical Leave Policy adopted by the Town.

## **SECTION 19: HEALTH, LIFE AND ACCIDENTAL DEATH GROUP INSURANCE**

**19.1:** The Town shall, pursuant to Chapter 32B of the Massachusetts General Laws, provide contributory group health, life and accidental death insurance to Regular Permanent Full-Time and Regular Permanent Part-time employees. The cost of the group insurance is paid on 70/30 basis by the Town and the participating employee. Participation in the group insurance plan is optional.

**19.2:** Upon termination, the Town's health insurance policy, in accordance with the Consolidated Omnibus Budget Reconciliation Act (COBRA), is discontinued.

## **SECTION 20: MILITARY LEAVE**

An Employee, upon request, shall be granted military leave in accordance with state and federal law.

## **SECTION 21: COURT TIME**

An Employee called to Jury Duty or to Testify as a witness as a result of employment in the Town or as a result of the performance of official Town duties or on behalf of the Town, shall be paid in an amount equal to the difference between the amount received from the court, other than for travel allowances and the pay normally received from the Town.

## **SECTION 22: ANNUAL EVALUATIONS**

The Board may require that each Employee be given a written annual evaluation by the Department Head or supervising Administrative Authority. This evaluation shall be in a form as the Plan Administrator may prescribe and it shall be filed with the Plan Administrator after it has been provided to and discussed with the Employee.

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### SECTION 23: HIRING PROCEDURE

The following procedure shall be used in filling all regular full-time and regular part-time positions.

**23.1:** A job description agreed to by both the Plan Administrator and the Appointing Authority must be completed prior to the application deadline.

**23.2:** The hiring rate and the annual rate for the job must be commensurate with comparable communities and agreed to by the Plan Administrator and the Appointing Authority prior to the announcement of the job opening. The Town Administrator/Manager may post a vacant position as soon as practical after the vacancy occurs, but he/she must notify the Appointing Authority at their next regularly scheduled meeting.

**23.3:** The job opening, approved by the Plan Administrator, must be posted at least seven calendar days, internally or externally, prior to the job being filled. If there are no internal applicants, then the job must be posted on the Town's website, one additional internet based job-search engine, and a hard copy must be posted at Town Hall in the same manner as public meeting notices.

The job opening announcement shall include:

- a) Job Title
- b) Rate of Pay
- c) Summary statement of duties
- d) Direction on how applications may be filed
- e) Application Deadline
- f) Minimum of five (5) days after notice publication for the deadline for filing application.

The following statements:

- a) "Applications will be received no later than \_\_\_ by the Department Head."
- b) "Equal Opportunity Employer"

#### **23.4:** Employee Physical Examinations

Every Employee, regular, supplemental, or seasonal, and any other Employee as the Plan Administrator may designate, may be required, as a condition of their employment, prior to the effective date of their employment, to have a physical examination by a physician appointed for such purpose by the Board of Selectmen. The cost of the physical examination shall be borne by the Town and reports from the examining physician shall be filed with the hiring Department or Administrative Authority.

**23.5:** The Town Administrator/Manager may appoint a qualified Emergency Employee or Temporary Employee for a period of up to 60 days to prevent a work stoppage. In this case, the Town Administrator/Manager must inform the Board of Selectmen at their next regularly scheduled meeting. Only the Board of Selectmen may vote to extend the 60-day period or make an emergency appointment or a temporary appointment permanent.

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## **SECTION 24: EMPLOYEES AND THE BOARD**

All Employees shall have the right to request an appointment to confer with the Board on any matter which is covered by the Plan.

## **SECTION 25: SOCIAL MEDIA POLICY**

### **25.1: Introduction**

The Town of Tyngsborough permits departments to utilize social media sites and social networking sites (collectively “social media sites”) to further enhance communications with its residents and various stakeholders in support of Town of Tyngsborough goals and objectives. Tyngsborough officials and town departments have the ability to publish articles, facilitate discussions and communicate information through such media to conduct official Tyngsborough business. Social media sites provide members of public the opportunity to learn about and participate in further discussion of Tyngsborough government business, operations and services. This policy sets forth general guidelines that must be adhered to with respect to utilization of social media sites for official Tyngsborough purposes. Questions regarding this Policy should be directed to the Town Administrator/Manager. These guidelines may be supplemented by more specific administrative procedures and rules as may be issued. Furthermore, this Policy is meant to be read in conjunction with all other applicable policies and procedures of the Town of Tyngsborough.

### **25.2: Definitions**

**25.2.1:** “Social media sites” and “social networking sites” refer to websites that facilitate user participation, networking, and collaboration through the submission of user-generated content. Social media in general includes tools such as: blogs, wikis and microblogging sites, such as Twitter; social networking sites, such as Facebook and LinkedIn; video sharing sites, such as YouTube; and forums such as Reddit.

**25.2.2:** A “social media identity” is a specific user identity or account that has been registered on a third-party social media site.

**25.2.3:** A “blog” is a Town of Tyngsborough website with regular entries of commentary, descriptions of events, or other material such as graphics or video.

**25.2.4:** A “moderator” is an authorized Town of Tyngsborough official (appointed or elected) or employee who reviews, authorizes and allows content submitted by Tyngsborough officials, employees and public commentators to be posted to a Town of Tyngsborough social media site or sites.

### **25.3: Policy**

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**25.3.1:** All Tyngsborough social media sites shall be:

- a) approved by the Town Administrator/Manager; and
- b) published using social media platform and tools approved by the Information Technology (“IT”) Department.

**25.3.2:** The official posting for the Town of Tyngsborough will be done by the Town Administrator/Manager, Assistant Town Administrator/Manager, IT Director or a designee.

**25.3.3:** Departments have the option of allowing employees to participate in existing social media sites as part of their job duties, or allowing employees to create social media sites as part of their job duties. Department Heads and the Town Administrator/Manager may allow or disallow employee participation in any social media activities in their departments.

**25.3.4:** All Tyngsborough social media sites shall adhere to applicable state, federal and local laws, regulations and policies including the Public Records Law, Public Records retention schedules, Open Meeting Law, Copyright Law and other applicable Tyngsborough policies.

**25.3.5:** Public Records Law and e-discovery laws and policies apply to social media content. Accordingly, such content must be able to be managed, stored and retrieved to comply with these laws. Furthermore, once such content is posted on a social media site, it should stay posted, unless it is removed for one of the reasons set forth below in Section IV, paragraph 10, or it is changed to fix spelling or grammar errors.

**25.3.6:** All social media sites shall clearly indicate that any content posted or submitted is subject to public disclosure.

**25.3.7:** Each Tyngsborough social media site shall include an introductory statement which clearly specifies the purpose and topical scope of the blog and social media/network site. Where possible, social media sites should link back to the official Town of Tyngsborough website for forms, documents and other information.

**25.3.8:** Each Tyngsborough social media site shall indicate to users that the site is subject to a third-party’s website Terms of Service. Furthermore, each Tyngsborough social media site shall indicate that: the social media site provider could collect personal information through a user’s use of the social media site, that this personal information may be disseminated by the third party, and that such dissemination may not be governed or limited by any state, federal or local law or policy applicable to the Town of Tyngsborough.

**25.3.9:** All social media sites shall clearly indicate they are maintained by the Town of Tyngsborough and shall have the Town of Tyngsborough contact information prominently displayed.

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**25.3.10:** The Town of Tyngsborough reserves the right to restrict or remove any content that is deemed in violation of this policy or any applicable law.

**25.3.11:** Tyngsborough social media content and comments containing any of the following forms of content shall not be allowed for posting:

- a) Comments or content not topically related to the particular site or blog article being commented upon;
- b) Profane, obscene, or vulgar language or content;
- c) Comments or content that promotes, fosters or perpetuates discrimination on the basis of race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, pregnancy or pregnancy-related conditions, genetic information, or military status, or any other category protected under the state and federal anti-discrimination laws;
- d) Comments or content that is threatening or harassing;
- e) Sexual comments, content, or links to sexual content;
- f) Conduct or encouragement of illegal activity;
- g) Information that may tend to compromise the safety or security of the public or public systems;
- h) Content that violates a legal ownership interest of any other party;
- i) Protected health information;
- j) Personnel information; or
- k) Other information that is not public record or is otherwise privileged from public disclosure.

**25.3.12:** All Tyngsborough social media moderators shall be trained regarding the terms of this policy, including their responsibilities to review content submitted for posting to ensure compliance with the policy.

**25.3.13:** Where appropriate, Tyngsborough IT security and/or computer use policies shall apply to all social media sites and articles.

**25.3.14:** Officials (elected or appointed) and employees representing the Town of Tyngsborough via social media sites must conduct themselves at all times as a representative of the Town of Tyngsborough and in accordance with all applicable rules, regulations, and policies (including personnel policies) of the Town of Tyngsborough. See 26.4, Employee Guidelines for Use of Social Media Sites.

**25.3.16:** No Town of Tyngsborough or department social media site can endorse or otherwise cite (either with approval or disapproval) vendors, suppliers, clients, citizens, co-workers, candidates or other stake-holders.

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### **25.4: Employee Guidelines for Use of Social Media**

#### **25.4.1: Electronic Communications and Computer Usage Policy**

All employees are responsible for understanding and following the Town of Tyngsborough's Electronic Communications and Computer Usage Policy, in addition to this Policy.

#### **25.4.2: First Amendment Protected Speech**

Although the Town of Tyngsborough can moderate the social media sites that accept comments from the public (such as blogs and wikis) to restrict speech that is obscene, threatening, discriminatory, harassing, or off-topic, employees cannot use the moderation function to restrict speech with which the Town of Tyngsborough merely disagrees (i.e. subject matter restrictions). Users have some First Amendment rights in posting content to public social media sites hosted by municipalities. Moderators must respect those rights by posting all comments other than those excluded for specific legitimate reasons, as referenced above.

#### **25.4.3: Copyright Law**

Employees must abide by laws governing copyright and fair use of copyrighted material owned by others. Never reprint whole articles or publications without first receiving written permission from the publication owner. Never quote an excerpt of someone else's work without acknowledging the source, and, if possible, provide a link to the original.

#### **25.4.4: Conflict of Interest**

Employees are prohibited from using social media to engage in any activity that constitutes a conflict of interest for the Town or any of its employees, as defined by G.L. c. 268A.

#### **25.4.5: Protect Confidential Information**

Never post legally-protected personal information that you have obtained from the Town of Tyngsborough (e.g., information that is not public record under the Public Records Law, G.L. c.66, §§10-10B and G.L. c. 4, §7(26), or whose dissemination is restricted under applicable Federal or State privacy laws or regulations). Ask permission to publish or report on conversations that occur within the Town of Tyngsborough. Never post information about policies or plans that have not been finalized by the Town of Tyngsborough unless you have received explicit permission from your supervisor to post draft policies or plans on the department's social media sites for public comment.

#### **25.4.6: Consider Your Content**

As informal as social media sites are meant to be, if they are on a government domain or represent a government identity, they are official government communications. Social media sites will be sought out by mainstream media – so a great deal of thought needs to go into how you will use the social media in a way that benefits both the Town of Tyngsborough and the public. Employees should not comment about rumors, political disputes, or personnel issues, for example. Always be honest and accurate when posting information or news.

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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### **25.4.7: Handling Negative Comments**

Because the purpose of many social media sites, particularly department blogs and wikis, is to get feedback from the public, you should expect that some of the feedback you receive will be negative. Some effective ways to respond to negative comments include:

- a) Providing accurate information in the spirit of being helpful;
- b) Respectfully disagreeing; and
- c) Acknowledging that it is possible to hold different points of view.

### **25.4.8: Respect Your Audience and Your Coworkers**

Do not use ethnic slurs, personal insults, obscenity, or engage in any conduct that would not be acceptable in your department's workplace. Do not be afraid to be yourself, but do so respectfully. This includes not only the obvious (no ethnic slurs, personal insults, obscenity, threats of violence, etc.) but also proper consideration of privacy and of topics that may be considered objectionable or inflammatory— such as party politics and religion. Do not use your department's social media presence to communicate among fellow Town of Tyngsborough employees. Do not air your differences with your fellow Town of Tyngsborough employees on your department's social media sites, and avoid statements, photographs or videos that reasonably could be viewed as malicious, obscene, threatening or intimidating.

### **25.4.9: Use the Social Media Site or Identity Only to Contribute to your Department's Mission**

When you contribute to your department's social media site or identity, provide worthwhile information and perspectives that contribute to your department's mission of serving the public. What you publish will reflect on the Town of Tyngsborough. Social media sites and identities should be used in a way that contributes to the Town of Tyngsborough's mission by:

- a) Helping you and your co-workers perform their jobs better;
- b) Informing citizens about government services and how to access them;
- c) Making the operations of your department transparent and accessible to the public;
- d) Creating a forum for the receipt of candid comments from residents about how government can be improved; and
- e) Encouraging civic engagement.

### **25.4.10: Mistakes**

The Town of Tyngsborough policy is that once something is posted, it should stay posted. Only spelling errors or grammar fixes should be made without making the change evident to users. If you choose to modify an earlier post, make it clear that you have done so—do not remove or delete the incorrect content; provide the correct information and apologize for the error. Ways to accomplish this include:

- a) Strike through the error and correct; or
- b) Create a new post with the correct information, and link to it from the post you need to correct or clarify. Either method is acceptable. In order for the social

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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media identity or site to achieve transparency, the Town of Tyngsborough cannot change content that has already been published without making the changes clearly evident to users.

### **25.4.11: Media Inquiries**

Town of Tyngsborough or department social media identities or sites may lead to increased inquiries from the media. If you are contacted directly by a reporter, you should refer media questions to the Town Administrator/Manager.

### **25.4.12: Personal Comments**

Make it clear when you are speaking for yourself as a resident or stakeholder, and not on behalf of the Town of Tyngsborough. If you publish content on social media sites and it has something to do with the work you do or subjects associated with the Town of Tyngsborough, use a disclaimer such as this: “The postings on this site are my own and don’t necessarily represent the Town of Tyngsborough’s positions or opinions.”

### **25.4.13: Employee or Official Profile**

If you identify yourself as a Town of Tyngsborough employee or official, ensure your profile and related content is consistent with how you wish to present yourself to colleagues, residents and other stakeholders.

### **25.4.14: Defamation**

Be aware that employees acting in their individual capacity (not on behalf of the Town of Tyngsborough) are not immune from defamation claims. Under Massachusetts law, defamation is established by showing that the defendant published a false, non-privileged statement about the plaintiff to a third party that either caused the plaintiff economic loss or was of the type that is actionable without proof of economic loss. Some statements, like imputation of a crime, are defamatory per se. Avoid statements that may be interpreted as defamatory.

### **25.4.15: Records Retention**

Social media sites will contain communications sent to or received by Tyngsborough officials and employees, and are therefore Public Records. Ensure that the Town of Tyngsborough or department retains a copy of the social media content in accordance with Public Records Retention Schedules. Review the third-party social media service provider’s terms of service for its record retention practices. Note that while third-party social media providers will most likely save your content for some period of time, they generally will not save it indefinitely. To the extent their policies are inconsistent with Public Records Retention Schedules, the Town of Tyngsborough or department should retain copies of social media posts such as by printing or otherwise storing periodic “snapshots” of the social media sites.

### **25.4.16: Open Meeting Law**

Be aware of the Open Meeting Law and possible violations for improper deliberations outside of a posted meeting. A series of individual postings on a social media site cumulatively may convey the position of a quorum of a governmental body regarding a

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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subject within its jurisdiction, and may constitute improper deliberation among the members of a board or committee.

### **25.4.17: Social Media at Work**

Social media may not be used while on work time or on equipment provided by the Town of Tyngsborough or on its networks unless it is work-related as authorized by your department head and is consistent with the Electronic Communications and Computer Usage Policy. Do not use Town of Tyngsborough email addresses to register on social media sites or other online tools utilized for strictly personal use.

### **25.4.18: Retaliation**

The Town of Tyngsborough prohibits taking negative action against any employee for reporting a possible deviation from this policy or for cooperating in an investigation. Any employee who retaliates against another employee for reporting a possible deviation from this policy or for cooperating in an investigation will be subject to disciplinary action, up to and including termination.

### **25.5: Violations of this Policy**

A violation of this Policy may result in either the suspension or permanent loss of the privilege to use the official Town-related social media account/s in question. It may also result in disciplinary action being taken against the employee, up to and including termination from employment, in accordance with all Union Contract's and Personnel Policy's disciplinary and grievance procedures. Additionally, may be personally liable for any losses, costs or damages incurred by the Town related to violations of this Policy. Employees shall report violations of this Policy to their supervisor, or in the case of department heads, directly to the Town Administrator/Manager. Retaliation against another user for reporting a violation or violations of this Policy, including the use of e-mail or the internet in a retaliatory manner, is strictly prohibited by the Town.

### **25.6: Credits**

The Town of Tyngsborough would like to acknowledge the Massachusetts towns of Upton and Millis for contributions to this policy.

# TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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## SOCIAL MEDIA POLICY

This acknowledges that I have received and reviewed the Social Media Policy, with attachments, of the Town of Tyngsborough (“Policy”). By signing this form, I agree to abide by the Policy and any Guidelines contained within, and I agree to review periodically any changes or modifications. I recognize that the law and associated Policy regarding use of Social Media are continually evolving. Therefore, I understand that my regular review of this Policy is required.

Name \_\_\_\_\_

Title \_\_\_\_\_

Department \_\_\_\_\_

Date \_\_\_\_\_

**To be included in employee’s personnel file.**

# TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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## **SECTION 26: ELECTRONIC COMMUNICATIONS AND COMPUTER USAGE POLICY**

### **26.1: Introduction**

This Policy is intended to provide guidance on the appropriate use of the Town of Tyngsborough's electronic communication and information equipment and systems ("Systems"). Such Systems include, but are not limited to, computer workstations, laptops, tablets, hardware and software, electronic mail ("e-mail"), telephones, cellular phones, pagers, smartphones, facsimile machines, and access to internal networks and the internet.

Use of the Town of Tyngsborough Systems by any employee, contractor, consultant, and/or volunteer ("user") shall constitute acceptance of the terms of this Policy and any such additional related policies that may be issued by the Town.

Access to and use of the Town of Tyngsborough Systems is intended for business-related purposes, including communicating with coworkers and colleagues as well as researching topics relevant to Town business. All existing state, federal, and local laws and Town policies apply to your conduct while using the Town of Tyngsborough Systems.

This Policy sets forth general guidelines and examples of prohibited uses of the Town of Tyngsborough systems for illustrative purposes, but does not attempt to identify all required or prohibited activities by users. Questions regarding whether a particular activity or use is acceptable should be directed to the Systems Administrator, and/or your supervisor. These guidelines may be supplemented by more specific administrative procedures and rules governing day-to-day management and operation of the Town of Tyngsborough Systems. This Policy is meant to be read in conjunction with all other applicable policies of the Town of Tyngsborough.

### **26.2: Privacy**

Users should not expect any right of privacy in said Systems, including electronic communications and information made or stored on the Town of Tyngsborough Systems. The Town retains the right to inspect its Systems, including any Town-owned or leased computer or electronic communications equipment, any data contained in such equipment, and any data sent or received by that equipment. The Town will exercise that right when reasonable and in pursuit of legitimate needs for supervision, control, and the efficient and proper operation of the workplace. Users should be aware that appropriately-authorized network administrators may monitor network traffic, and/or access all files, including e-mail files and internet use history, stored on any equipment.

All electronic files and documents originating from or passing through the Town of Tyngsborough Systems are considered to be the property of the Town.

### **26.3: Security**

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All usernames and passwords are for the exclusive use of the individual to whom they are assigned. The user is personally responsible and accountable for all activities carried out under his/her username, and should take all reasonable precautions to protect his/her password. The password associated with a particular username must not be given or divulged to another person with the exception of the Systems Administrator. No one may use, or attempt to use, a username or password assigned to another person, or pose as another user.

### **26.4: Internet Guidelines**

The internet is increasingly used as a tool in the workplace; misuse or abuse of the internet can result in wasted time, as well as potentially violate laws, bylaws, ordinances, regulations, or other Town of Tyngsborough policies. Therefore, users should adhere to the following Internet Guidelines.

#### **26.4.1: Use for Official Business**

Internet access should be used primarily for official Town business, but occasional personal use may be permitted. Excessive usage for non-business related purposes, as well as misuse of the internet, may result in discipline.

#### **26.4.2: Authorization**

Authorization for internet access must be obtained through the Systems Administrator. Once authorization is approved, each user is responsible for the security of his or her account password and will be held responsible for all use or misuse of such account (see Section III, Security, above).

#### **26.4.3: Compliance with Laws**

Users must not utilize the internet to violate any state, federal or local law, or the laws of any other nation. United States copyright and patent laws may apply to information and material(s) accessed through the internet, and care should be taken to not violate the copyrights or patents of others on or through the use of the internet.

#### **26.4.4: Viruses**

All appropriate precautions should be taken to prevent viruses by only opening attachments when they are expected and from known users and by not running files without the approval of the Systems Administrator. Users should make every attempt to detect viruses, including scanning all computer files (including attachments) that are downloaded and/or opened from the internet, before installation or execution of such files/attachments. Users should direct any questions regarding the proper use of virus detection software to the Systems Administrator prior to downloading and/or opening any computer files/attachments.

#### **26.4.5: Town Monitoring**

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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As noted above, users should not have any expectation of privacy as to their computer or internet usage, including the receipt and sending of e-mail. It is possible for the Town to monitor internet usage histories and/or patterns, and the Town may inspect, without limitation, any portion of its Systems, including files stored either on the computer hard drive or the Town's server, to the extent necessary to ensure compliance with this Policy or any other applicable state, federal, or local law or Town policy.

### **26.4.6: Prohibited Practices**

- a) Users shall not use Town computers knowingly to download or distribute pirated software or data. Any software or files downloaded via the internet may be used only in ways that are consistent with their licenses or copyrights. The downloading of games or other programs for amusement/entertainment purposes is strictly prohibited. Playing online recreational games is also prohibited.
- b) Users shall not make an unauthorized attempt to enter into another employee's computer or other internal or external systems to which the user has not been given access (commonly referred to as hacking).
- c) All computer hardware and software shall at all times remain the property of the Town of Tyngsborough, and may not be removed from their respective sites or downloaded onto personal computer equipment without the express written approval of the Systems Administrator. The installation or upgrade of computer software programs on computer hardware without the express written approval of the Systems Administrator is strictly prohibited.
- d) Users must not utilize the internet to deliberately propagate any virus, worm, Trojan horse, trap-door or back-door program code, or knowingly disable or overload any computer system or network, or to circumvent any system intended to protect the privacy or security of another user.
- e) Users shall not disclose confidential information or promote personal political beliefs, discrimination, sexual harassment, and any unlawful activity; nor shall the Town of Tyngsborough computers be used for private financial gain, or commercial, advertising or solicitation purposes.
- f) Use of the Town of Tyngsborough Systems, including computers, to display any kind of image or document that is obscene, pornographic, sexually explicit or sexually suggestive, is prohibited. Additionally, these materials may not be archived, stored, distributed, edited, or recorded using Town network, printing, or computing resources. An exception may be certain investigations conducted by Town of Tyngsborough police personnel only after authorization from the Police Chief.
- g) Users shall not maliciously use or disrupt the Town of Tyngsborough computers, networks, or internet services; nor breach the Systems' security

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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features; nor misuse or damage Town of Tyngsborough equipment; nor misuse passwords or accounts; nor attempt to access unauthorized sites; nor use the Town of Tyngsborough Systems after such access has been denied or revoked; nor attempt to delete, erase or otherwise conceal any information stored on any portion of the Town of Tyngsborough Systems.

h) The recreational use of streaming media on the town network is prohibited unless approved by the Systems Administrator.

### **26.5: Electronic Mail (“E-Mail”) Guidelines**

**26.5.1:** E-mail accounts are provided to Town of Tyngsborough employees after signing the Electronic Communication and Computer Usage Policy. Those currently holding e-mail ID will have same withdrawn for failure to sign the Policy.

**26.5.2:** Users shall not utilize the Town of Tyngsborough Systems for the purpose of sending chain-letters, unsolicited non-business-related mass e-mails, or other spam.

**26.5.3:** The internet does not guarantee the privacy and confidentiality of information. Sensitive material transferred over the internet may be at risk of detection by a third party. Users must exercise caution and care when transferring such material in any form. Electronic communications sent through the Town of Tyngsborough Systems should include a message similar to:

*If you have received this message in error, please contact by return email or telephone (Department’s Telephone Number), and delete the copy you received. Thank you.*

**26.5.4:** The Secretary of State’s Office of the Commonwealth has determined that e-mail qualifies as “public records,” as defined in Chapter 4, section 7(26) of the Massachusetts General Laws. Therefore, all e-mail mail sent by or received through the Town of Tyngsborough Systems shall be archived by the Systems Administrator. All users shall retain either a printed or digital record of e-mail sent by or received through the Town of Tyngsborough Systems, in the same manner that other paper records are kept by their departments, and in accordance with the Record Retention requirements.

**26.5.5:** Users should be aware that opening programs or files attached to email messages may cause computer viruses to infect the Town of Tyngsborough Systems, and thus should only open such attachments from anticipated and trusted sources.

### **26.6: Telephone Usage**

Telephones (including cell phones and smartphones) are provided for business use. Personal telephone calls may be permitted, but users should exercise good judgment in making such calls. Managers/department heads are responsible for monitoring their employees’ telephone usage. Excessive usage for non-business related purposes, as well as misuse of telephones, such as to make harassing or threatening calls, may result in discipline, up to and including termination from employment.

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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Employees are reminded that text messages or other similar messages sent from or to town-issued cell phones and smartphones constitute public records, and therefore, any such messages pertaining to official business of the Town should be maintained as public records, in the same manner as e-mail messages (see 27.5, above).

### **26.7: Violations of Policy**

A violation of this Policy may result in either the suspension or permanent loss of the privilege to use the Town of Tyngsborough Systems. It may also result in disciplinary action being taken against the employee, up to and including termination from employment. Additionally, users shall be personally liable for any losses, costs or damages incurred by the Town related to violations of this Policy. Similarly, the illegal use of the Town of Tyngsborough Systems may result in referral to law enforcement authorities. Employees shall report violations of this Policy to their supervisor, or in the case of department heads, directly to the Town Administrator/Manager. Retaliation against another user for reporting a violation or violations of this Policy, including the use of e-mail or the internet in a retaliatory manner, is strictly prohibited by the Town.

### **26.8: Disclaimer**

The Town of Tyngsborough cannot be held accountable for the information that is retrieved via the network. Pursuant to the Electronic Communications Privacy Act of 1986 (18 USC 2510 et seq.), notice is hereby given that there are no facilities provided by this system for sending or receiving private or confidential electronic communications. System administrators have access to all mail and will monitor messages. Messages relating to or in support of illegal activities will be reported to the appropriate authorities.

The Town of Tyngsborough will not be responsible for any damages individuals may suffer, including loss of data resulting from delays, non-deliveries, or service interruptions caused by negligence or errors or omissions. Use of any information obtained is at employees own risk.

The Town of Tyngsborough makes no warranties (expressed or implied) with respect to: the content of any advice or information received by a user, or any costs or charges incurred as a result of seeing or accepting any information; and any costs, liability, or damages caused by the way the user chooses to use his or her access to the network.

The Town of Tyngsborough reserves the right to change its policies and rules at any time in writing.

### **26.9: Credits**

The Town of Tyngsborough would like to acknowledge the Massachusetts towns of Upton and Shirley for contributions to this policy.

# TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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## **ELECTRONIC COMMUNICATIONS AND COMPUTER USAGE POLICY**

This acknowledges that I have received and reviewed the Electronic Communications and Computer Usage Policy of the Town of Tyngsborough (“Policy”).

By signing this form, I agree that I have read and understand the Policy and any Guidelines contained within. I recognize that the law and associated Policy regarding the use of the internet, electronic mail and the Town’s electronic communications and information systems are continually evolving. Therefore, I understand that my regular review of this Policy could be required.

Name \_\_\_\_\_

Title \_\_\_\_\_

Department \_\_\_\_\_

Date \_\_\_\_\_

**To be included in employee’s personnel file.**

<b>Electronic Communications and Computer Usage Policy</b>	
Draft Review Date	
Approval Date by Vote of Selectmen	6/2016
Revision Dates	9/2018

# TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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## **SECTION 27: VEHICLE USE POLICY**

### **27.1: Introduction**

This Policy governs the use of any type of motorized vehicle owned, controlled, leased or used on behalf or for the benefit of the Town of Tyngsborough (“Town”).

### **27.2: Purpose and Scope**

The purpose of this Policy is to establish procedures, guidelines and standards for:

- a) Assignment and use of Municipal Vehicles and Personal Vehicles used for Town business
- b) Employee eligibility
- c) Financial implications of Municipal and Personal Vehicle use
- d) Vehicle Accident Reporting
- e) Responsibilities When Driving a Municipal or Personal Vehicle

### **27.3: Applicability**

This Policy applies to all Town employees, excluding employees of the School Department. Employees whose employment is governed by an individual employment agreement or collective bargaining agreement are subject to this Policy unless there is a conflict between a provision of this Policy and the agreement, in which case the relevant terms of the agreement shall control.

If any provision of this Policy is deemed to violate a Massachusetts or federal law or regulation, or if any Massachusetts or federal law or regulation applicable to this Policy is enacted after the effective date of this Policy, then the Policy shall be interpreted to comply with such governing law or regulation.

The Town expressly reserves the right to amend or modify any term of this Policy.

### **27.4: Definitions**

**27.4.1:** Expense Reimbursement – payment for approved expenses relating to an employee’s use of his or her Personal Vehicle, which shall be issued upon receipt of valid documentation (in accordance with IRS regulations, expense reimbursement shall not be considered a taxable salary item).

**27.4.2:** Municipal Vehicle – an automobile, truck, van, or other self-propelled vehicle owned, rented, or leased by the Town and licensed for travel on a public way.

**27.4.3:** Personal Vehicle – a vehicle owned by or available for use by a Town employee.

**27.4.4:** Commuting – the use of a Municipal Vehicle for traveling between an employee’s residence and his or her principal work location.

### **27.5: Assignment of Municipal Vehicles**

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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Municipal vehicles may be assigned by the Town Administrator/Manager with approval from the Board of Selectmen or a designated Department Head.

Municipal vehicles may be assigned for take-home use by the Town Administrator/Manager with approval from the Board of Selectmen; however the Town Administrator/Manager may delegate such authority to the Chief of Police or the Board of Fire Engineers for employees in their respective departments.

Prior to authorizing an employee's use of a Municipal Vehicle, the Town Administrator/Manager shall obtain and review a copy of the employee's current driving record. A copy of said driving record shall be placed in the employee's personnel file.

Employees are required to maintain a valid motor vehicle license, issued by the Commonwealth of Massachusetts or their state of current residence, for the class of vehicle to be operated, and must present proof of such license to his or her Supervisor or Department Head prior to being authorized to operate a Municipal Vehicle.

The assignment of a Municipal Vehicle for take-home use will only be considered for employees who require a vehicle for the ordinary and necessary discharge of their job functions, as identified in an approved position description provided by the Town Administrator/Manager.

The following criteria may be used in the determination of eligibility for take-home vehicle use:

- a) Officially designated on-call status;
- b) Requirement for frequent emergency availability during non-working hours;
- c) Issuance of a pager or other communication device; and
- d) Required use of emergency or other equipment contained in the vehicle.

Authorization to operate a Municipal Vehicle and the assignment thereof may be rescinded at any time by the Town Administrator/Manager or appropriate Department Head.

### **27.6: Vehicle Operation**

#### **27.6.1: Municipal Vehicles**

Municipal Vehicles are to be used only for authorized Town business.

#### **27.6.2: Personal Vehicles**

Personal Vehicles may be used by municipal employees for Town business during work hours, if such use is first approved in writing by the Town Administrator/Manager. It is recognized that there may be limited circumstances in which an employee may be unable to timely obtain authorization to use his/her Personal Vehicle for Town business. In these

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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circumstances, the employee shall subsequently meet with the Town Administrator/Manager to seek authorization for future use of his/her Personal Vehicle.

### **27.7: Administration**

#### **27.7.1: Registering and Insuring Municipal Vehicles**

Whenever a Town-owned vehicle is purchased and registered, the appropriate Department Head shall notify the Town Administrator/Manager's office and immediately complete the necessary paperwork in order to add the vehicle to the Town's insurance policy.

#### **27.7.2: Personal Vehicles – Insurance**

Employees who have been authorized to use Personal Vehicles for work-related purposes shall present proof of the following minimum levels of insurance coverage to the Town Administrator/Manager on an annual basis:

- a) Bodily Injury: \$100,000/\$300,000
- b) Property Damage: \$50,000

Employees who fail to present such proof of insurance will not be authorized to use a Personal Vehicle for Town business. The Town Administrator/Manager reserves the right to rescind an employee's authorization to use a Personal Vehicle for Town business at any time.

#### **27.7.3: Employee Driving Records**

Employees who have been authorized to operate a Municipal Vehicle or who use a Personal Vehicle to perform Town business in the regular course of their employment shall be subject to a review of their Registry of Motor Vehicles driving record on an annual basis.

If the employee has an out-of-state driver's license, he/she must provide, upon request, a copy of their existing state driving record to the Town Administrator/Manager. Any out-of-pocket expense incurred while obtaining a copy of the driving record shall be reimbursed by the Town upon submission of a receipt.

Driving records shall be reviewed by the Town Administrator/Manager and the Department Head.

The Town Administrator/Manager, in his or her sole discretion, reserves the right to deny or rescind an employee's authorization to operate a Municipal Vehicle or Personal Vehicle for Town business based on his or her review of the employee's driving record.

### **27.8: Financial Considerations**

#### **27.8.1: Municipal Vehicles**

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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Employees assigned a Municipal Vehicle for take-home who regularly commute more than 25 miles each way shall reimburse the Town for each mile traveled over 25 each way at the applicable IRS mileage rate.

### **27.8.2: Imputed Income Taxation**

Employees authorized to commute in a Municipal Vehicle may be subject to imputed income regulations as set forth by the Internal Revenue Service, which considers a certain portion of the vehicle use (namely the commute) to be income for the purposes of income taxation. The Town Treasurer shall be responsible for determining any tax liability and will be provided with the names of all employees authorized to use Municipal Vehicles for commuting purposes, and the normal, one-way commuting distance, each December 1.

Employees who are assigned marked and unmarked police vehicles, and/or Municipal Vehicles that meet eligibility criteria as defined under 26 CFR §1.274-5(k) will not be subject to imputed income taxation as a result of the vehicle assignment.

### **27.8.3: Reimbursement of Work-Related Travel Expenses**

When an employee is authorized to use a Personal Vehicle for work-related travel, he or she shall be reimbursed for mileage at the applicable IRS standard mileage rate, unless covered by contract or stipend. Employees will be notified by the Town Treasurer of any changes to the IRS mileage rate.

In accordance with IRS regulations and rulings, the mileage rate is intended to cover, but is not limited to, the cost of fuel, repairs, insurance, all operating costs, and general wear and tear on an employee's Personal Vehicle.

In addition to the mileage rate, the Town will reimburse employees authorized to travel outside of the Town, driving a Personal or Municipal Vehicle, within the scope of employment, for tolls and reasonable parking expenses, upon presentation of a valid receipt.

Employees will not be reimbursed for commuting between their homes and offices or other regular work locations.

In order to be reimbursed for mileage traveled in a Personal Vehicle, employees must complete a Town Payment Form and submit it to the Town Treasurer with appropriate supporting documentation and/or receipts in a timely manner.

### **27.9: Rules & Responsibilities**

Employees who drive a Municipal Vehicle or Personal Vehicle for Town business shall comply with the following rules:

- a) Safe, legal operation of vehicles is required at all times; distracted driving is prohibited.

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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- b) Employees are prohibited from possessing open alcoholic containers or illegal drugs, or controlled substances in a Municipal Vehicle or in a Personal Vehicle being used for Town business.
- c) Employees may not operate Municipal Vehicles or Personal Vehicles for Town business while under the influence of alcohol, illegal drugs, or any controlled substances that affect the safe operation of a vehicle.
- d) The transporting of unopened alcoholic containers is limited to “incidental personal use as described in this Policy.
- e) Police Officers who are required to carry prohibited items in performing their normal job duties are exempt from applicable provisions.
- f) Tobacco use, including electronic cigarettes, is prohibited inside Municipal Vehicles

The following activities are also prohibited while operating a Municipal Vehicle or Personal Vehicle for Town business:

- a) Retrieving, sending, or responding to text and image messaging
- b) Internet browsing;
- c) Reading, drafting, or sending emails; and
- d) Operating any application installed on cellular phones or handheld devices with the exception of telephone calls.

Employees are expected to keep telephone calls brief and limited to urgent Town business. Use of hands-free devices is strongly recommended. Employees shall at all times remain focused on the road and driving conditions. Special care should be taken in situations where there is traffic, inclement weather, or the employee is driving in an unfamiliar area.

The Town expressly reserves the right to discipline or rescind the driving privileges/ authorization for employees who fail to comply with these rules.

### **27.9.1: Municipal Vehicles**

- a) Municipal Vehicles may only be used for legitimate municipal business.
- b) Individuals assigned to a Municipal Vehicle with take-home privileges may use the vehicle for “incidental personal uses” such as stopping at a grocery store or going to the bank on his/her way home, but only if the stop does not add significant mileage to the trip. Mileage above 25 miles will require reimbursement to the Town at the applicable IRS rate.
- c) Operators of Municipal Vehicles shall exercise sound judgment at all times.

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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- d) Misuse or abuse of an assigned Municipal Vehicle may constitute a violation of the State Ethics Law, and may further result in disciplinary action and/or revocation of driving privileges.
- e) Municipal Vehicles shall not be used to transport any individual who is not directly or indirectly related to municipal business. Passengers in Municipal Vehicles shall be limited to Town employees and individuals who are associated with Town business (committee members, consultants, contractors, etc.). An employee's family members shall not ordinarily be transported in Municipal Vehicles. Police Officers transporting individuals in the performance of their normal job duties are exempt from this provision.
- f) Municipal Vehicles shall contain and carry only those items for which the vehicle is designed.
- g) The Town shall not be liable for the loss or damage of any personal property transported in a Municipal Vehicle.
- h) Employees are expected to keep Municipal Vehicles clean, and shall immediately report any malfunction, damage, necessary repairs or other vehicle problems to their supervisors.
- i) Employees assigned Municipal Vehicles for commuting purposes are expected to park such vehicles in a safe location and to lock the car when not in use. Operators should never leave vehicles unattended with the ignition keys in the lock or anywhere in the vehicle.
- j) Unless expressly exempted by law, employees are to ensure that they and all passenger(s) in a Municipal Vehicle wear seat belts at all times, if the Municipal Vehicle is so equipped.
- k) All operators of vehicles that require a Commercial Driver's License (CDL) shall be subject to drug and alcohol testing in accordance with U.S. Department of Transportation regulations and the Town's Drug and Alcohol Policy.
- l) Employees operating a Municipal Vehicle shall maintain a valid motor vehicle license issued by the Commonwealth of Massachusetts or the state of their current residence, which must be provided upon request by a supervisor during a specific or periodic license check.
- m) Employees operating a Municipal Vehicle shall drive defensively and obey all applicable traffic and parking regulations, ordinances, and laws.
- n) Employees who incur parking or other fines/citations while operating or using an assigned Municipal Vehicle, shall be personally responsible for payment of such fines/citations, unless payment of such fine/citation is approved in writing by the Town Administrator/Manager.

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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- o) Employees who are issued citations for any offense while operating or using a Municipal Vehicle must promptly notify their Supervisor, and in no case later than 24 hours after the issuance of a citation.

### **27.9.2: Personal Vehicles**

- a) The use of Personal Vehicles for transporting individuals during working hours for purposes unrelated to municipal business is prohibited.
- b) Employees operating a Personal Vehicle for Town business shall comply with rules set forth above.
- c) The Town shall not be liable for the loss or damage of any personal property transported in a Personal Vehicle being used for Town business.
- d) Employees operating a Personal Vehicle while on work related travel shall maintain a valid motor vehicle license issued by the Commonwealth of Massachusetts or the state of their current residence, which must be provided upon request by a supervisor during a specific or periodic license check.
- e) Employees operating a Personal Vehicle while on work-related travel shall drive defensively and obey all applicable traffic and parking regulations, ordinances, and laws.
- f) Employees who incur parking or other fines/citations while operating or using a Personal Vehicle on work-related travel, shall be personally responsible for payment of such fines/citations, unless payment of such fine/citation is approved in writing by the Town Administrator/Manager.

### **27.10: Vehicle Accidents**

When an employee using a Municipal Vehicle or Personal Vehicle on work-related travel is involved in a motor vehicle accident, the operator shall:

- a) Stop the vehicle
- b) Contact the local or state police
- c) Attempt to obtain the following information:
  - a. Name(s) and address(es) of the other driver(s);
  - b. Drivers license number(s) of the other driver(s);
  - c. Name(s) and address(es) of the owner(s);
  - d. Registration number(s) of the other vehicle(s) involved;
  - e. Name(s) and address(es) of other driver(s) insurance company(ies); and,
  - f. Name(s) and address(es) of any witness(es) to the accident.

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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- d) Report the incident to the employee's immediate supervisor and Town Administrator/Manager.
- e) Do not move the vehicle in these circumstances until authorized by the police.
- f) Unless an injury prevents the operator from doing so, complete a Vehicle Accident Report ("VAR") within 24 hours of the accident. A blank copy of the form may be obtained from the Town Administrator/Manager's office. The completed VAR shall be submitted to the employee's direct Supervisor.
- g) The Town Administrator/Manager shall file a copy of the VAR in the employee's personnel file.

### **27.11: Special Circumstances**

This Policy is intended to provide a basic framework governing the use of Municipal Vehicles and Personal Vehicles being used for Town business and does not necessarily contain procedures governing every situation that may arise. Employees seeking clarification of this Policy should contact the Town Administrator/Manager. Exemptions from certain provisions of this Policy may be authorized by the Town Administrator/Manager, after review by the Department Head. Such exemptions must be documented and signed off by the employee (see Attachment A), approved by the Town Administrator/Manager, and placed in the employee's personnel file.

### **27.12: Exemptions**

The Board of Selectmen may grant exemptions to specific provisions of this Policy as outlined in Attachment C below. If an exemption to the Policy is permitted, the other sections of the Policy shall remain in full force and effect for the employee.

### **27.13: Discipline**

Failure to comply with any of the provisions of this Policy may result in disciplinary action up to and including revocation or suspension of Town vehicle privileges, revocation of authorization to use a Personal Vehicle for Town business, as well as suspension and/or termination of employment.

<b>Vehicle Use Policy</b>	
Draft Review Date	
Approval Date by Vote of Selectmen	February 23, 2015
Revision Dates	



# TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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## Vehicle Use Policy

### ATTACHMENT B

#### ACKNOWLEDGEMENT

I, \_\_\_\_\_ (print name), as an employee of the Town of Tyngsborough, hereby acknowledge that I have received, read, understand, and agree to abide by the Town's *Vehicle Use Policy*.

If assigned to operate a Municipal Vehicle or use a Personal Vehicle for work-related travel, I agree to comply with the provisions of the Policy.

In addition, I authorize the Town Administrator/Manager to obtain a copy of my driving record from the Registry of Motor Vehicles on an annual basis, or in the case of out-of-state residents, agree to obtain and provide the Town Administrator/Manager with a copy of my driving record. I understand that my driving record shall only be used to determine my safety record, enabling me to be assigned and/or operate a Municipal Vehicle or to use my Personal Vehicle for work-related travel.

I further understand that the Town in its sole discretion may revoke my authorization to operate a Municipal Vehicle or Personal Vehicle for Town business at any time.

(A copy of this form, signed by the employee, shall be placed in the employee's personnel file.)

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

# TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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## Vehicle Use Policy ATTACHMENT C EXEMPTIONS

The following is a guide for the Town Administrator/Manager in determining whether to grant an exemption to any portions of the Town's Vehicle Use Policy.

**Attachment A** of the *Vehicle Use Policy* must be filled out and appropriately signed, approved, and placed in the employee's personnel file for an exemption to be authorized.

Only the following sections of the Vehicle Use Policy may be exempted:

1. Extenuating circumstances require an employee to be assigned a Municipal Vehicle for take-home usage, when he/she otherwise does not satisfy the eligibility criteria set forth in the Policy.
2. A compelling business reason exists to allow an employee to commute more than 25 miles one-way in a Municipal Vehicle without requiring the employee to reimburse the Town for miles travels beyond 25. Please note that an exemption to this specific section does not alleviate the employee and the Town from compliance with the requirement regarding Imputed Income Taxation.

If an exemption to the Policy is permitted, all other sections of the Policy shall remain in full force and effect for the employee.

# TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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## Vehicle Use Policy

### ATTACHMENT D

#### GUIDELINES FOR DETERMINING ELIGIBILITY TO OPERATE MUNICIPAL VEHICLES OR PERSONAL VEHICLES FOR TOWN BUSINESS

Employees shall only be deemed eligible to operate a Municipal Vehicle or a Personal Vehicle for Town business if their driving record is deemed “Acceptable” or “Probationary” as defined below:

- (1) **Acceptable** – An employee’s driving records shall be deemed Acceptable if it contains no more than two (2) moving traffic citations, or one (1) at fault motor vehicle accident
- (2) **Probationary** – An employee shall be placed on “Probationary” status with respect to his driving privileges if his/her driving record is not Acceptable and contains two (2) at-fault accidents or three (3) or more Type B violations, as defined below. The employee shall be placed on a probationary status for a period of six (6) months with respect to his/her driving privileges, at which time the Town shall undertake a second review.
- (3) **Unacceptable** – An employee whose driving record contains any one of the following shall be deemed Unacceptable and shall be prohibited from driving a Municipal Vehicle or a Personal Vehicle for Town business:
  - a) Three or more accidents (at-fault) in the last three (3) years.
  - b) One or more Type A violations in the last three (3) years.
  - c) Any combination of accidents and Type B violations equaling four (4) or more in the last two (2) years.
  - d) An operator’s license that has been suspended or revoked within the past three (3) years.

#### **Type A Violations**

- a) Driving while intoxicated
- a) Driving under the influence of drugs
- b) Negligent homicide arising out of the use of a motor vehicle
- c) Operating a motor vehicle during a period of suspension or revocation of an operator’s license.
- d) Using a motor vehicle for the commission of a felony.
- e) Aggravated assault with a motor vehicle.
- f) Operating a motor vehicle without the owner’s authorization.

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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- g) Permitting an unlicensed person to drive.
- h) Reckless driving.
- i) Drag Racing
- j) Hit and run (bodily injury and physical damage).

### **Type B Violations**

All moving violations not listed as Type A violations.

The Town Administrator/Manager, in his sole discretion, reserves the right to deny or rescind an employee's authorization to operate a Municipal Vehicle or Personal Vehicle for Town business based on his or her review of the employee's driving record.

# TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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## SECTION 28: EMPLOYEE CODE OF CONDUCT

### 28.1: Purpose and Scope

**28.1.1:** The purpose of this policy is to indicate conduct expected by employees and officials of the Town of Tyngsborough when conducting business with other employees, customers, vendors, and visitors, who interact with the Town, either on a daily or more infrequent basis. This policy extends to private conduct, to the extent the law has additional requirements on public employees.

**28.1.2:** Nothing in this policy limits or replaces rules of conduct described in Massachusetts General Laws Chapter 268A, (Chapter 268A and Regulations are referred to in this policy as "State Public Employee Ethics Laws") regarding the conduct of a public employee, including Town employees as described in the law and regulations.

**28.1.3:** Nothing in this policy limits or replaces other Town policies that address employee conduct, such as the Town's Policy of Anti-Discrimination and Anti-Harassment and other policies applicable to employee conduct.

### 28.2: Applicability

**28.2.1:** This policy applies to all full and part-time compensated positions, excluding employees of the School Department. Employees whose positions are covered by collective bargaining agreement are subject only to those portions of the policy which are not separately regulated by a collective bargaining agreement. Persons employed under individual employment agreements shall follow all of the provisions of this policy.

**28.2.2:** This policy does not replace applicable law, including State Public Employee Ethics Laws, but instead applies in addition to applicable law. In the event this policy conflicts in any way with laws governing employee conduct, the law will apply over this policy, to the extent that it is stricter.

### 28.3: Policy

**28.3.1:** Employees and town officials must act with fundamental honesty and integrity in all Town dealings, comply with all by-laws/regulations that govern the Town, maintain an ethical and professional work environment and comply with all Town policies. Town employees and officials are required to consistently treat fellow employees, customers, vendors, and visitors with respect, dignity, honesty, fairness, and integrity.

**28.3.2:** Employees shall comply with all of the policies and operating procedures of the department in which they work and the Town of Tyngsborough. Employees shall respond forthright to the work-related directives of their supervisor.

**28.3.3:** Employees and town officials shall obey the laws of the United States and the Commonwealth of Massachusetts. Any employee who is convicted of a crime relating to their employment or impacting their employment, or crimes which may disqualify them from holding necessary certifications or licenses, may be subject to disciplinary action, up to and including termination. Employees are, where applicable, subject to meeting CORI background screening requirements, subject to Town requirements and applicable law, including the law governing CORI.

Further, all Employees of the Town must assume the following responsibilities:

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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### **28.3.4:** Conduct Generally and in Relation to the Community

- a) Never purport to represent the opinion of the Town or your department except when specifically authorized to do so.
- b) Recognize that the chief function of local government at all times is to serve the best interests of all of the people.
- c) Demonstrate respect for the public that you serve.
- d) Safeguard confidential information.
- e) Conduct yourself so as to maintain public confidence in our local government.
- f) Conduct official business in such a manner that you cannot be improperly influenced in the performance of your official duties.
- g) Unless specifically exempted, conduct the business of the public in a manner that promotes open and transparent government.
- h) Comply as fully as possible with all Town policies, including, without limitation, the following:
  - i) Anti-Discrimination and Anti-Harassment Policy found in the town's Personnel Policy Binder.
  - j) Anti-fraud Policy found in the town's Financial Policies and Procedures.
  - k) Comply as fully as possible with all applicable laws, including, without limitation, the following:
    - i. The Open Meeting Law
    - ii. Procurement Laws
    - iii. The Ethics/Conflict of Interest Statute (G.L. c.268A).

**28.3.5:** Employees and town officials are expected to conduct themselves in their official relations with the public and with their fellow employees in a manner which will enhance public respect for, and confidence in, the employee and the Town as a whole. Employees and town officials must not only perform their duties in a wholly impartial manner, but must avoid any conduct which gives a reasonable basis for the impression of acting otherwise.

Further, all Employees of the Town must assume the following Conduct in Relation to elected and appointed officials, co-workers, and administration/management;

- a) Treat all members of boards/committees and fellow employees with respect despite differences of opinion; keeping in mind that professional respect does not preclude honest differences of opinion, but requires respect within those differences.
- b) Treat all staff as professionals and respect the abilities, experience, and dignity of each individual.
- c) Recognize and support the administrative chain of command
- d) Never publicly criticize an individual employee or a department. Concerns about staff performance should only be made to the Town Administrator/Manager or Union representatives if applicable through private communication.
- e) Uphold the intent of executive session and respect the privileged communication that exists in executive session.

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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- f) Make decisions only after all facts on a question have been presented and discussed.

**28.3.6:** As further described in State Public Employee Ethics Laws, and among other requirements set forth in the law, Employees and town officials may not, directly or indirectly, ask, demand, exact, solicit, seek, accept, receive or agree to receive anything of value for themselves or for any other person or entity for or because of any official act performed or to be performed by the employee, to influence any official act performed or to be performed, to influence or attempt to influence any official act performed or to be performed, or to act in a manner which would cause a reasonable person to conclude that the employee could be influenced in such a manner.

**28.3.7:** Examples of conduct that is considered inappropriate and/or unprofessional under this policy may be physical and/or verbal and include, but are not limited to, the following:

- a) Asking or requiring another individual to act unethically or violate the Town's Professional Conduct Policy or the law;
- b) Disparaging or misrepresenting the Town or any Town employee or official;
- c) Engaging in gambling, such as sports' pools, card games, games of chance, and raffles while conducting Town business or representing the Town;
- d) Discriminating against others on the basis of race, sex, sexual orientation, age, handicap, religion or national origin in the course of your employment;
- e) Engaging in any behaviors that are harassing, including sexual harassment or offensive comments or jokes;
- f) Consuming and/or using alcohol, narcotics not prescribed by a licensed physician treating the employee, or controlled substances during work time, or reporting to work under the influence of alcohol, intoxication, non-prescribed narcotics or controlled substances in any form. You should inform the Town Administrator/Manager or your supervisor at the start of the workday if you are taking medication that might impair your work performance, in order that proper accommodations can be considered and made where reasonable.
- g) Unprofessional behaviors, commentary, written correspondence and/or gestures directed at another Town employee or official, supervisor, customer, visitor or resident that a reasonable person would find offensive, humiliating or intimidating or that adversely affect staff performance or a harmonious work environment.

Specifically, all employees and town officials shall avoid any action which may result in or create a reasonable basis for the impression of:

- a) Using public office for private gain;
- b) Giving preferential treatment to any citizen;
- c) Making work-related decisions contrary to departmental town policy; and,
- d) Using one's official position to harass or intimidate any person or entity.
- e) No municipal employee shall, otherwise than as provided by law for the proper

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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discharge of his/her official duties, directly or indirectly receive or request compensation from anyone other than the town or municipal agency in relation to any particular matter in which the same Town is a party or has a direct and substantial interest.

- f) No person shall knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly give, promise or offer such compensation.
- g) No municipal employee shall, otherwise than in the proper discharge of his/her official duties, act as agent or attorney for anyone other than the city or town or municipal agency in prosecuting any claim against the town, or as agent or attorney for anyone in connection with any particular matter in which the same town is a party or has a direct and substantial interest.
- h) Employees and town officials shall not solicit or accept, directly or indirectly, any gift or benefit, including any gratuity, favor, entertainment, loan, or any other item of value, from a person who or entity which the employee knows or has a reason to know:
  - i) Has, or is seeking to obtain, contractual or other business or financial relations with his/her department or the Town;
  - j) Conducts business or other activities which are regulated or monitored by the department or the Town, except as permitted by statute or regulation;
  - k) Has interests that may be substantially affected by the employee's performance or non performance of his/her duties or has the appearance of being substantially affected; or
  - l) Seeks to influence the employee in performance of his official acts or any act within their official responsibility.

**Exceptions** – The restrictions set forth in 28.3.7 do not apply to the following gifts provided that such gift or benefit has not been solicited by the public employee, and is not for any of the purposes identified as prohibited above, and/or in the State Public Employee Ethics Laws:

- a) *De Minimis* Gifts. Anything with a value of less than \$25, other than cash. *De minimis* gifts include multiple gifts or benefits given or offered to a public employee within a calendar year by one person or by an organized group of persons having a common interest in a particular matter or legislation before that public employee, if the aggregated value is less than \$25;
- b) *Inheritance*. Anything received by inheritance;
- c) *Gifts from Immediate Family and Relatives*. Anything received by a public employee from a member of the public employee's immediate family or from a great grandparent, great grandchild, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, step-parent, stepchild of the public employee or of the employee's spouse and given for reasons unrelated to the public employee's official position or duties;
- d) *Informational material*. Informational material relevant to a public employee's official functions and intended for use by the public employee in the exercise of

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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official duties or solicited for the purpose of promulgating, administering and enforcing agency regulations, such as books, pamphlets, reports, documents, periodicals, or other information that is recorded in a written, audio, electronic, or visual format;

- e) *Professional Organization Membership Fees.* Reduced or waived membership or other fees offered by a professional organization if the only requirements for membership relate to professional qualifications;
- f) *General Discounts.* A rebate, discount or promotional item available to the general public or to a class consisting of all public employees from a city or town, county or state on the same terms as offered to the general public;
- g) *Display Items for Meritorious Public Service.* An item intended for display and given by a civic, charitable, professional, religious, or fraternal organization in recognition of meritorious public service that has no or minimal resale value. Such items shall include but not be limited to trophies, plaques, bowls, and certificates;
- h) *Honoraria.* Honoraria not exceeding \$250.00 for participating in a legitimate speaking engagement provided that:
  - i. Delivering the speech is not part of the public employee's official duties;
  - ii. Public resources are not used in the preparation of the speech;
  - iii. Public time is not taken for the preparation or delivery of the speech;
  - iv. Neither the sponsor of the address nor the source of the honorarium is a person or entity with whom the public employee has had or reasonably expects to have dealings in his official duties;
  - v. The public employee makes a prior written disclosure.

### **28.4: Actual or Potential Conflicts of Interest, Violations of this Policy, or Violations of the Law**

Employees and town officials should immediately report and make inquiry about questionable items, gifts, benefits, or matters. Inquiries can be made with the Town or employees may go directly to the Town Administrator/Manager or to the Ethics Commission at 1-888-485-4766 (Attorney of the Day).

### **28.5: Procedures/Investigations**

**28.5.1:** A violation of any aspect of this policy can damage the integrity and harm the reputation of the Town of Tyngsborough and all employees and town officials, and may additionally place the employee in violation of Massachusetts law. The Town is fully committed to reviewing and/or investigating, as necessary, any and all reported incidents. Employees who become aware of inappropriate conduct should report it to their Department Head or Town Administrator/Manager.

**28.5.2:** When management becomes aware of an incident, they shall document the incident as soon as possible and forward said information to their supervisor.

**29.5.3:** A decision to deal administratively with the employee and/or to have the employee consult with Employee Assistance Program (EAP) shall be made as promptly

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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as possible by the Town Administrator/Manager or his/her designee, and management should continue an on-going review.

**28.5.4:** Employees may have separate reporting requirements under the Massachusetts Ethics Law, which are in addition to those described in this policy. Employees must be aware of these reporting requirements, and when and under what circumstances Massachusetts State Ethics law requires employees to make such Disclosures, including as directed by State law.

### **28.5.5: Applicable Statutes/Laws**

A number of laws are implicated by this policy, which outline unacceptable or unethical conduct in the workplace. These include, but are not limited to, any number of criminal and civil laws prohibiting unethical conduct, such as Massachusetts General Laws Chapter 268A, and Massachusetts Regulations at 930 CMR 5.00 et. Seq. (Chapter 268A and Regulations are referred to in this policy as “State Public Employee Ethics Laws”), as well as any criminal or civil laws in the areas of anti-stalking laws, anti-bullying laws, OSHA, anti-discrimination, Civil Rights, etc.

# TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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## ACKNOWLEDGEMENT

**Note:** Your signature below signifies that you have received this policy.

*This policy is applicable to all employees of the Town of Tyngsborough.*

*For those employees covered by Collective Bargaining Agreements, the provisions of the CBA, which are subject to negotiation prevail over the language in this policy (i.e. discipline).*

*Any changes made to this policy that apply to sections that are subject to collective bargaining, will be sent to the appropriate union prior to implementation.*

Name \_\_\_\_\_

Title \_\_\_\_\_

Department \_\_\_\_\_

Date \_\_\_\_\_

# TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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## **SECTION 29: ANTI-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

### **29.1: Introduction**

It is the goal of our Town to promote a workplace that is free of unlawful discrimination and harassment (“harassment”) of any type, including sexual harassment. Harassment consists of unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law, such as race, color, religious creed, national origin, ancestry, sex/gender, gender identity, age, criminal record (inquiries only), handicap (disability) mental illness, retaliation, sexual harassment, sexual orientation, genetics, pregnancy and pregnancy-related conditions, active military status, or other bases prohibited under state or federal anti-discrimination statutes, will not be tolerated. Our Town will not tolerate harassing conduct that affects employment conditions, that interferes unreasonably with an individual’s performance, or that creates an intimidating, hostile, or offensive work environment.

This Policy applies to all employment practices and employment programs sponsored by the Town.

**29.1.1:** This Policy shall apply, but not be limited to, the areas of:

- a) Recruitment
- b) Selection
- c) Compensation and benefits
- d) Professional development and training
- e) Reasonable accommodation for disabilities or religious practices
- f) Promotion
- g) Transfer
- h) Termination
- i) Layoff, and
- j) Other terms and conditions of employment.

This Policy may apply to discrimination (including harassment) that occurs between co-workers that takes place outside the workplace (including, but not limited to, online conduct or conduct utilizing the internet or other electronic media). When the conduct complained of occurs outside of the workplace, the Town may consider the following and other factors in assessing whether the conduct constitutes conduct in violation of this Policy:

- a) Whether the event at which the conduct occurred is linked to the workplace in any way, such as at a Town-sponsored function;

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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- b) Whether the conduct occurred during work hours;
- c) The severity of the alleged outside-of-work conduct;
- d) The work relationship of the complainant and alleged harasser, which includes whether the alleged harasser is a supervisor and whether the alleged harasser and complainant come into contact with one another on the job;
- e) Whether the conduct adversely affected the terms and conditions of the complainant's employment or impacted the complainant's work environment. Because the Town takes allegations of harassment seriously, we will respond promptly to complaints of harassment. Where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of harassment as defined above, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of harassment.

### **29.2: Definitions**

#### **29.2.1: Harassment**

“Harassment” means unwelcome conduct, whether verbal or physical, that is pervasive and severe and is based on a characteristic protected by law. Harassment includes, but is not limited to:

- a) Display or circulation of written materials or pictures that are degrading to a person or group as previously described.
- b) Verbal abuse, slurs, derogatory comments, or insults about, directed at, or made in the presence of an individual or group as previously described.

#### **29.2.2: Sexual Harassment**

“Sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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Under this definition, for example, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The definition of sexual harassment is broad. In addition to the above examples, other unwelcome sexually oriented conduct that has the effect, whether intended or not, of creating a work environment that is hostile, offensive, intimidating or humiliating to either male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- a) Unwelcome sexual advances – whether they involve physical touching or not;
- b) Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- c) Displaying sexually suggestive objects, pictures, cartoons;
- d) Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- e) Inquiries into one's sexual experiences; and,
- f) Discussion of one's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual for having complained about discrimination and/or harassment, and retaliation against individuals for cooperating with an investigation of a harassment and/or discrimination complaint will not be tolerated by this organization.

### **29.3: Examples of Prohibited Discriminatory Behavior**

It is not possible to list all the circumstances that may constitute discrimination in violation of this Policy. Discrimination may take many forms, including both verbal and nonverbal behaviors. Prohibited behavior includes, but is not limited to, the following behaviors connected to someone's membership in one or more groups protected by law as noted in the first paragraph above: slurs or other derogatory comments; sharing demeaning pictures, cartoons, or jokes; demeaning gestures, and; any conduct constituting sexual harassment.

### **29.4: Complaint Procedures**

## TOWN OF TYNGSBOROUGH- PERSONNEL POLICY

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All employees, managers, and supervisors of the Town share responsibility for avoiding, discouraging and reporting any form of discriminatory harassment. The primary responsibility for ensuring proper investigation and resolution of harassment complaints rests with the Town Administrator/Manager, or his/her designee, who will administer the policy and procedures described herein.

If any of our employees believes that he or she has been subjected to discrimination and/or harassment, the employee has the right to file a complaint with the Town. This may be done in writing or orally. In addition, residents, visitors, applicants, vendors, contractors, their agents and employees, or other third parties who believe they have been subjected to discrimination and/or harassment may also file a complaint with the Town using the procedures described herein. Furthermore, employees may also file a complaint if they have been subjected to harassment from residents, visitors, applicants, vendors, contractors, their agents and employees, or any other third parties in the workplace, while performing work-related duties, or during other work-related activities.

Prompt reporting of harassment is in the best interest of our Town and is essential to a fair, timely, and thorough investigation. Accordingly, complaints should be filed as soon as possible following the incident(s) at issue. If you would like to file a complaint you may do so by contacting the Town Administrator/Manager or the HR/Benefits Coordinator, both with offices located at Town Hall, 25 Bryants Lane. A complaint of harassment regarding the Town Administrator/Manager may be made directly to the Chair of the Board of Selectmen. These individuals will be available to discuss any concerns you may have and to provide information to you about our policy on harassment and our complaint process.

### **29.5: Complaint Investigation**

When we receive a complaint, we will promptly investigate the allegation in a fair and expeditious manner to determine whether there has been a violation of our policy. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances, but confidentiality cannot be guaranteed. Our investigation may include private interviews with the person filing the complaint and with witnesses. We may also interview the person alleged to have committed harassment. The complainant, the person alleged to have committed harassment, and all witnesses are required to fully cooperate with all aspects of an investigation. When we have completed our investigation, we will inform the person filing the complaint and the person alleged to have committed that the investigation has been completed. Notwithstanding any provision of this policy, we reserve the right to investigate and act on our own initiative in response to conduct which may constitute harassment or otherwise be inappropriate, regardless of whether an actual complaint has been filed.

### **29.6: Disciplinary Action**

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If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, or may include such other forms of disciplinary action as we deem appropriate under the circumstances.

### **29.7: State and Federal Remedies**

In addition to the above, if you believe you have been subjected to discriminatory harassment of any type, including sexual harassment, you may file a formal complaint with either or both government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies requires that claims be filed within 300 days from the alleged incident or when the complainant became aware of the incident.

#### **The United States Equal Employment Opportunity Commission (“EEOC”)**

One Congress Street, 10th Floor

Boston, MA 02114,

(617) 565-3200

#### **The Massachusetts Commission Against Discrimination (“MCAD”)**

Boston Office:

One Ashburton Place, Room 601, Boston, MA 02108

(617) 727-3990

Springfield Office:

436 Dwight Street, Room 220, Springfield, MA 01103

(413) 739-2145

Worcester Office:

484 Main Street, Room 320, Worcester, MA 01641

(508) 799-6379

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### **ANTI-DISCRIMINATION AND ANTI-HARASSMENT POLICY INCLUDING SEXUAL HARASSMENT**

This acknowledges that I have received and reviewed the Town's Anti-Discrimination and Anti-Harassment Including Sexual Harassment Policy ("Policy"). By signing this form, I agree to abide by the Policy and any Guidelines promulgated thereunder, and I agree to review periodically any changes or modifications. I recognize that the law and associated Policy regarding discrimination and harassment are continually evolving. Therefore, I understand that my regular review of this Policy, as it may be amended, is required.

Name \_\_\_\_\_

Title \_\_\_\_\_

Department \_\_\_\_\_

Date \_\_\_\_\_

**To be included in employee's personnel file.**

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### **SECTION 30: SEVERANCE CLAUSE**

The provisions of this Policy Binder are hereby declared to be severable, and if any provision and the application of any such provision to any person or under any circumstances shall be held to be invalid, illegal or unconstitutional, such invalidity, illegality or unconstitutionality shall not be construed to effect the validity, legality or constitutionality of any of the remaining provisions or of that provision with respect to persons or circumstances other than those as to which the offending provision is held to be invalid, illegal or unconstitutional.