

Chapter 9.8

PERSONNEL***Sec. 9.8-1. Introduction.**

(a) This personnel policy handbook is designed to provide most of the details concerning employment relationship with the Town of Dexter. The employee should regard this set of policies primarily as a guideline and not as a contract between the town and the employee. However, where specified, the rules and requirements are binding on all town employees. The employee may feel free to ask his/her supervisor questions regarding this handbook, or stop by the town manager's office with questions. This policy replaces any previously adopted personnel policies. The town council reserves the right to amend or modify this policy as it deems necessary.

(b) The Town of Dexter is an equal opportunity employer (E.O.E.), and pursues a policy of nondiscrimination in its personnel practices. The town is committed to the principle of equal opportunity in employment. The town does not discriminate against individuals on the basis of race, color, sex, sexual orientation, religion, disability, age, veteran status, ancestry or national or ethnic origin, or other status protected by law. This policy applies to promotions, training, compensation, and all other conditions related to employment. The town will make reasonable accommodations for qualified individuals in accordance with applicable law.

(c) In order to attract and retain the most qualified staff we offer fair compensation in exchange for the use of an employee's time and talents. We provide a safe work environment which is

***Editor's note**—Ord. No. C2009-2, adopted Feb. 12, 2009 revised the town's personnel policy in effect amending ch. 9.8, Personnel, of the Code in its entirety. Prior to revision, ch. 9.8 derived from: Ord. No. 94-1, adopted May 12, 1994; Ord. No. C94-10, adopted Dec. 8, 1994; Ord. No. 94-12, adopted Jan. 12, 1995; Ord. No. C95-2, adopted Mar. 9, 1995; Ord. No. C95-15, adopted Dec. 14, 1995; and Ord. No. C96-6, adopted May 9, 1996; Ord. No. C2000-20, adopted Oct. 12, 2000; Ord. No. C2002-24, adopted Sept. 12, 2002; Ord. No. C2003-22, adopted Oct. 9, 2003; Ord. No. C2004-9, adopted May 13, 2004; Ord. No. C2004-15, adopted June 10, 2004.

Cross reference—Administration, ch. 2.

§ 9.8-1

DEXTER CODE

free of discrimination and harassment, and we provide a fair opportunity for advancement. All decisions on staffing shall be predicated on the best interests of the Town of Dexter.

(d) The Town of Dexter recognizes that an organized and systematic loss control program is important to our operational and administrative systems. The safety and health of employees and of the public and the protection from loss of the town's physical facilities is both a moral and legal obligation.

- (1) It is intended that the Town of Dexter will be undertaking initiatives to maintain safe and healthful working conditions and facilities, develop safe operating procedures, and utilize its financial and personnel resources to achieve a loss-free environment for our employees and for the public.
- (2) The responsibility for this undertaking is shared by the manager, department heads and employees. Oversight of the loss control/safety program will be done by the town manager. However, all employees must work cooperatively to ensure that workplace safety is a matter of continual concern, equal in importance to all other operational considerations.
- (3) The town's loss control program and this mission statement will be reviewed, updated, and issued as deemed necessary.

(Ord. No. C2008-4, 1-10-08; Ord. No. C2009-2, 2-12-09)

Sec. 9.8-2. Employment categories.

(a) *This policy covers all town employees.* Persons covered by this set of policies fall within several different employment classifications. Depending on which classification the employee is in, benefits, holidays, vacations, etc., may vary; however, all town employees are entitled to those benefits mandated by law such as FICA, unemployment and workman's compensation insurance. This policy applies to the following categories of municipal employment:

- (1) *Category A—Full-time salaried employees.* These are employees who work in jobs requiring five (5) or more

PERSONNEL

§ 9.8-2

consecutive days each week, and thirty-five (35) or more hours weekly for the town's entire fiscal year*. The fiscal year is a twelve-month period beginning July 1 and ending the following June 30. This category employee is entitled to paid holidays, accrual of paid vacation and medical leave, as well as leaves of absence as outlined in the appropriate section of these guidelines. Employees in this category are also entitled to coverage under the town's medical and life insurance programs as well as participation in the town's employee retirement program. Category A employees are classified as exempt positions.

Exempt positions—Certain positions are automatically exempt from the minimum wage and overtime laws. By law, executives and/or certain administrators are exempt from the minimum wage and overtime law. All other positions are classified as nonexempt. The following positions are classified Category A exempt:

- Town manager;
- Librarian;
- Police chief;
- Public works director;
- Code enforcement officer;
- Recreation director;
- Human services director;
- Facilities director.

- (2) *Category B—Full-time hourly employees.* These are employees who work in jobs requiring five (5) or more consecutive days each week, and seven (7) or more regularly scheduled hours each day (not including lunch periods) for the town's entire fiscal year and who are paid an hourly wage. Thirty-five (35) regularly scheduled work hours per week are considered the minimum required to qualify for this category. The fiscal year is a twelve-month period beginning July 1 and ending the following June 30. These are classified as nonexempt positions. This category employee is entitled to paid holidays, accrual of paid

*In some cases individual contractual arrangements may take precedence.

§ 9.8-2

DEXTER CODE

vacation and medical leave and leaves of absence as outlined in the appropriate sections of these guidelines. Employees in this category are entitled to coverage under the town's medical and life insurance programs, as well as participation in the town's employee retirement program. The following positions are classified Category B nonexempt:

Clerical/administrative staff;

Police personnel;

Public works personnel.

- (3) *Category C—Regular part-time employees.* These are employees who work in jobs requiring at least twenty (20), but not more than thirty-five (35) regularly scheduled hours per week (not including lunch periods) for the town's entire fiscal year. These positions are paid an hourly wage. The fiscal year is a twelve-month period beginning July 1 and ending the following June 30. This category employee is entitled to paid holidays, accrual of paid vacation time and medical leave and leaves of absence as outlined in the appropriate section of these guidelines. Employees in this category may participate in the town's retirement program and may subscribe to the medical/health insurance program; however, the employee assumes the responsibility for paying the applicable monthly premiums.
- (4) *Category D—Seasonal employees.* These are employees who work in jobs requiring the same full-time or part-time daily and weekly schedules as in Categories B and C, but only work during a particular season of the year (e.g., recreational staff). These positions are paid an hourly wage. Normally, this work begins on or about June 15, and ends on or about September 15. These employees are entitled to paid holidays that occur during their designated period of employment; however, they will receive no employee benefits beyond those mandated by law, such as FICA, unemployment insurance and workman's compensation insurance.

PERSONNEL

§ 9.8-2

- (5) *Category E—Temporary employees.* These are employees who do not fall in Categories A, B, C or D, and whose employment may either be temporary, full-time or part-time. These positions are paid an hourly wage. These employees are entitled to paid holidays that occur during their period of employment; however, receive no employee benefits beyond those mandated by law, such as FICA, unemployment insurance, and workman's compensation insurance. With the exception of reserve police officers, employees in this category must submit an application to be considered for employment on each occasion that the job is advertised, i.e., grounds keepers.
- (6) *Category F—"Volunteer/on-call" public safety employees.* These are typically fire fighters who are paid a nominal amount during periods that they are performing services for the community. The rates of wage are to be determined by the town manager and approved by the town council. When responding to a public safety related call or attending official training sessions these persons are considered as employees of the Town of Dexter, and must adhere to the standards of conduct expected of other municipal employees. This category of employee receives no employee benefits beyond those mandated by law, e.g., FICA and workman's compensation insurance.
- (7) *Category G—Other.* These are employees who work for the town in a permanent capacity but do not fit the classification of full-time, part-time personnel. Typically they perform duties that require less than twenty (20) hours per week and their work schedules may vary based on department requirements. These employees are entitled to paid holidays that fall on a scheduled work day. Generally, this category of employee receives no employee benefits beyond those mandated by law, e.g., FICA and workman's compensation insurance.

(b) *Probation:* Category A, B and C employees will be on conditional probation for the first ninety (90) days of their employment with the town.

(Ord. No. C2009-2, 2-12-09; Ord. No. C2010-5, 4-8-10)

§ 9.8-3

DEXTER CODE

Sec. 9.8-3. Employee records.

(a) Employee records are maintained for each employee covered by this policy in accordance with procedures developed by the town manager. Official employee records will be kept by the town manager in his/her office. Employees have the right to review their individual employment records, by appointment with their supervisor, or upon request to the town manager (or designee). When employees are reviewing their records, either his/her supervisor or the town manager must be present. Documents will not be removed from the employee records without the manager's approval. All employee records are treated as confidential and are only available to the town manager, finance officer, the employee's immediate supervisor and the employee, except as the law otherwise requires. Employee records remain the permanent property of the Town of Dexter.

(b) In the event there is a request for work reference information concerning a present or past employee, it should be referred to the town manager or person operating in that capacity. The town manager will only verify employment dates. Before any other information is provided, there must be a completed "Authorization to Release Employee Information" form signed by the employee, in that employee's personnel file. All requests for references on current or past employees below the department head level shall be forwarded to the appropriate department head. The request for references at the department head level shall be forwarded to the town manager.

(c) Employees shall receive a job description upon being hired to a position, promoted or transferred to another position. The job description shall state the title of the position, location or work site, the immediate supervisor to whom the employee is responsible, and a description of those tasks anticipated to be performed. The town manager or his designee may from time to time, make changes, modifications and clarifications to job descriptions.

(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-4. Work schedules, hours, and attendance.

(a) The work week for payroll purposes is a seven-day period which begins on Sunday morning at 12:01 a.m. and ends the following Saturday at 12:00 p.m.

PERSONNEL

§ 9.8-4

(b) The standard hours of operation of the town office are 8:30 a.m. to 4:30 p.m., Monday through Friday. Employee hours may vary depending on the employee position, or at the supervisor's discretion. In any event, departmental schedules will be coordinated with the town manager to insure all functions are properly staffed during regular business hours. Employees shall be at their respective work places at the designated starting time for their department.

(c) There is no guaranteed work schedule or workday, and no minimum number of hours which will be provided in any week or any day. Employees are subject to emergency recall, special assignments, and directed attendance at meetings and special events. If this occurs, the employee will be compensated for at least two (2) hours of work at either the regular or overtime rate (whichever applies) for attendance at the required event (Category A employees excepted).

PERSONNEL

§ 9.8-4

(d) It is the responsibility of the employees who may be absent from work to see that their immediate supervisor is advised of the reason for such an absence (if not previously coordinated), if possible, within one (1) hour prior to the normally scheduled start of his/her work period.

(e) Employees in Categories A and B have the following normal work schedules:

Normal work hours per day: Seven (7) or more.

Normal work hours per week: Thirty-five (35) or more.*

Lunch period: As directed by supervisor.

(f) Specific work times/schedules for Category C, D, E and F employees will be determined by the respective supervisor/department head.

(g) *Overtime.* Employees in nonexempt positions may be required to work a reasonable amount of overtime. Police department and public works department employees may be assigned overtime at their supervisor's discretion. All other overtime work must be approved by the town manager. Employees must have prior approval from their supervisor or the town manager before working overtime hours. Overtime pay is one and one-half (1½) times the regular hourly rate, and is paid for hours in excess of twelve (12) consecutive hours per work period and/or forty (40) hours during a week.† Overtime pay is two and one-half (2½) times the regular hourly rate when performed on official holidays. A work period is defined as the hours of work scheduled or performed during any one (1), twenty-four-hour cycle.

(h) *Compensatory time.* With the approval of the supervisor, hourly wage employees who work overtime will have their choice of compensatory time off or overtime pay; both will be at a rate of one and one-half (1½) times regular pay. However, all compensatory time must be taken within thirty (30) working days of the date the overtime is worked. Salaried/exempted employees are not authorized to participate in the compensatory time program; however, they will be allowed considerable flexibility in determin-

*Normal hours per week for the police department are forty-two (42).

†Forty-two (42) hours for police.

§ 9.8-4

DEXTER CODE

ing their work schedule and time off. If time off for short periods (four (4) hours or less) is necessary, it must be approved by the town manager or his/her designee. Any time off in excess of four (4) hours must be taken as vacation or sick leave.
(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-5. Compensation and reimbursements.

(a) It is the objective of the Town of Dexter to offer compensation that will attract and retain well qualified and responsible employees. Rates of pay are generally based on salaries and wages for towns of the same comparative size and municipal structure as Dexter. The classification of a position and specific duties and responsibilities of a position as set forth in employee job descriptions shall be major factors in determining the rate of compensation paid to individual employees.

(b) For pay purposes, employees are categorized as "exempt" (salary) and "nonexempt" (hourly wage). Salaried employees are not subject to overtime rules and are paid an established annual rate of pay based on factors such as experience, professional requirements, levels of responsibility, and education. Non-exempt, or wage employees are subject to overtime rules and special conditions, situations, and procedures that may influence the computation of pay rates. All salaries and wages are subject to annual review and adjustment based on cost of living factors, employee performance, and comparative analysis of pay rates for similar positions in other regional municipalities. Also, all employees will be given an additional equivalent of a fifteen cents (\$0.15) per hour increase in pay when they reach the tenth anniversary of employment, and every five (5) years thereafter. Longevity increases for salaried employees will be computed using forty (40) hours per week as the base.

(c) Entry level compensation will be determined by the town manager or in special cases, by the town council, and will be based on factors such as qualifications, experience and training. Recommendations made by individual department heads are important in establishing entry level compensation. The minimum entry level wage paid to a Category B or C employee will be equivalent to the current federal/state minimum wage rate plus

PERSONNEL

§ 9.8-5

one dollar eighty-five cents (\$1.85) per hour. Minimum entry level wage for all other categories will be no less than current federal/state minimum wage rates. These rates will be reviewed annually to determine if adjustments are required. Note: If the state and federal minimum wage rates differ, the highest of the two (2) will be used as the base reference.

(d) The Town of Dexter pays employees weekly. The payroll work week begins on Sunday and ends at midnight Saturday. Paychecks will generally be available no later than the following Thursday, unless other conditions warrant, with the final decision to be made by the town manager. Accounting of payroll deductions, retirement contributions, and accrual of vacation and sick leave will be done through the payroll system, with each employee receiving a weekly statement of earnings. Payroll checks will not be distributed to anyone other than the department head or individual employee unless a written authorization is provided and on file as part of the official employee records.

(e) It is the responsibility of each department head to complete weekly time sheets for their assigned wage employees. The completed time sheets, reflecting individual work hours, vacation, and sick leave from the previous week, will be provided to the finance officer no later than noon on Monday (Tuesday if a holiday falls on Monday). Department heads/salaried employees must complete a vacation and sick leave form which is submitted to the finance officer weekly. The form is used to track vacation and sick time use for salaried employees only.

(f) All employees and municipal officials who are not receiving a monthly flat rate amount for use of their personal vehicle when conducting official town business will be reimbursed at a rate set annually and based on comparative data. When operating personal vehicles outside of town on official municipal business, those individuals receiving a monthly flat rate amount may file a claim for applicable mileage. Claims must be filed on the appropriate reimbursement request forms which are available through the finance officer. Mileage reimbursement rates will be reviewed annually for the purpose of adjustment.

§ 9.8-5

DEXTER CODE

(g) Any employee or municipal official shall be entitled to reimbursement for meals and/or lodging in a reasonable amount, provided those expenses are incurred as a result of conducting official business on behalf of the Town of Dexter. All requests for reimbursement will be reviewed by the town manager and subject to adjustment.

(h) Due to a resignation, termination or long-time illness of a department head, employees performing duties in the department head's absence, in addition to performing their own duties, shall be reimbursed at the rate of ten (10) per cent of the department head's current weekly salary plus the employee's regular weekly rate of pay.

(i) Due to a resignation, termination or long-time illness of a department head, employees performing the department head duties in the department head's absence shall be reimbursed at the rate of five (5) per cent of the department head's current weekly salary plus the employee's regular weekly rate of pay. (Ord. No. C2009-2, 2-12-09; Ord. No. C2012-5, 3-8-12)

Sec. 9.8-6. Vacations.

(a) Paid vacations are only available for employees in Category A, Category B and Category C. Vacation entitlements are earned during each calendar year cycle on a prorated basis and are paid at the employee's regular salary or hourly rate. Vacation time is accrued based on the following factors:

- (1) *For full-time, Category A employees (salaried):*
 - a. Ten (10) days (eighty (80) hours) upon satisfactory completion of initial probationary period.
 - b. After five (5) years of continuous employment, ten (10) days (eighty (80) hours) plus one (1) day for each year up to twenty-five (25) days (two hundred (200) hours) total.
- (2) *For full-time, Category B employees (hourly wage):*
 - a. After one (1) year of continuous employment, five (5) days (forty (40) hours).

PERSONNEL

§ 9.8-6

- b. After two (2) years, and up to five (5) years of continuous employment, ten (10) days (eighty (80) hours).
 - c. After five (5) years of continuous employment, ten (10) days (eighty (80) hours) plus one (1) day for each year up to twenty-five (25) days (two hundred (200) hours) total.
- (3) *For regular part-time Category C employees (hourly wage):*

PERSONNEL

§ 9.8-6

- a. Five (5) days* after one (1) year of continuous employment.
- b. After two (2) years of continuous employment, five (5) days* plus one (1) day each year up to ten (10) days total.

(b) For vacations of ten (10) working days or less, employees must have their vacation periods approved by their supervisor. For vacations of more than ten (10) working days, the employee must have the approval of both the supervisor and the town manager or his/her designee. Vacation time taken by all department heads will be coordinated in advance with the town manager or his/her designee. Due consideration will be given to employee seniority when conflicts arise regarding scheduling. All vacation time will be documented on hourly wage employee time sheets or salaried employee vacation and sick leave forms.

(c) Vacation time can be accrued up to a maximum of sixty (60) days (four hundred eighty (480) hours). Any unused vacation time exceeding sixty (60) days will be lost at the end of each anniversary month. The "buy back" of accrued vacation time will not be permitted except upon termination of employment.

(d) Upon termination of employment, any employee who has accrued vacation time up to a maximum of sixty (60) days shall be compensated for this time at his or her regular rate of pay. This will be pro-rated according to the percentage of the year which the employee has worked at the time of termination.

(e) An employee may give unused vacation time to another employee to be used as sick time at the sick employee's rate of pay with the approval of the town manager.

(f) Any person whose employment with the town is terminated for any period in excess of thirty (30) days, and who is subsequently rehired, shall start as a new employee as far as vacation benefits are concerned. Additionally, employees receiving worker's compensation and their employee status has not been clearly determined will continue to accrue vacation time up to a maximum of sixty (60) days.

*Equivalent to the regular number of hours worked per week.

§ 9.8-6

DEXTER CODE

(g) Employees are entitled to receive their vacation pay prior to the beginning of their scheduled vacation period; however, they must advise the finance officer or treasurer of their intent, in writing, at least four (4) working days prior to the commencement of the vacation period.

(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-7. Sick, family, medical leave and military family leave.

(a) Sick pay is available to employees in Categories A and B, who are unable to attend work because of personal illness or injury or illness or injury to members of the immediate family, or for personal medical/dental appointments. Sick pay is available to employees in Category C who are unable to attend work because of personal illness or injury or illness or injury to members of the immediate family. For the purpose of clarification, "immediate family" is defined as spouse, domestic partner, children, mother or father, or any other relative residing with the employee. Sick pay will be accrued according to the following schedule:

- (1) Employees in Category A and B (full-time) will be eligible to accrue twelve (12) sick days per year (ninety-six (96) hours), earned at the rate of one (1) day per month.
- (2) Employees in Category C will be eligible to six (6) sick days per year (forty-eight (48) hours), earned at the rate of one-half (1/2) day per month.

(b) At the time that an employee permanently separates/retires from their employment with the town, accumulated sick leave shall be paid at the following rate:

- (1) After five (5) years of uninterrupted service the employee is entitled to twenty-five (25) per cent of his/her accrued sick hours up to the equivalent of one hundred twenty (120) days. (Example: twenty-five (25) per cent × one hundred twenty (120) days = thirty (30) days.) A day is equivalent to the number of hours a day an employee is regularly scheduled to work. Therefore the employee will be paid for a maximum of thirty (30) days based on the assumption that one (1) sick day is equal to eight (8) hours.

PERSONNEL

§ 9.8-7

(2) After ten (10) years of uninterrupted service the employee is entitled to fifty (50) per cent of the accrued sick hours up to the equivalent of one hundred twenty (120) days. (Example: fifty (50) per cent × one hundred twenty (120) days = sixty (60) days.) Therefore the employee will be paid for a maximum of sixty (60) days based on the assumption that one (1) sick day is equal to eight (8) hours.

(c) All employees who must be absent because of illness or injury shall report their absence within one (1) hour of their scheduled time of arrival for work to their immediate supervisor. When an employee has been absent for more than two (2) consecutive days, or at any time at the discretion of the town manager or his/her designee the town manager or his/her designee may require a physician's statement concerning the employee's fitness to return to work and/or proof of entitlement.

(d) Sick leave shall not be considered as an entitlement which an employee may use at his/her discretion, but shall be allowed for the necessity arising from actual illness, disability, requirement to provide medical care to a family member, or the necessity to obtain medical/dental treatment. Abuse of the sick leave policy is subject to disciplinary action.

(e) *Maternity and paternity leave.* Employees may take up to a total of twelve (12) weeks of maternity or paternity leave. The first three (3) weeks will be paid leave and the final nine (9) weeks will be unpaid, however, all benefits will continue. Employees adopting children are also eligible for unpaid maternity and paternity leave.

(f) *Unpaid family/medical leave.* This benefit does not run concurrent with sick leave. Employees in Category A, B or C, who have completed at least twelve (12) months of employment and have used all their accumulated vacation and sick time with the town shall be granted, upon thirty (30) days' written notice, up to twelve (12) weeks of unpaid leave during a twelve-month period for a serious health condition of a spouse, dependent child or parent, or a serious health condition of the employee. A "serious health condition" shall mean an illness, injury, impairment or physical or mental condition that involves inpatient care in a

§ 9.8-7

DEXTER CODE

hospital, hospice or residential medical care facility or continuing treatment by a health care provider. Under this policy, the town has the right to require from the employee certification by the health care provider of the date on which the serious condition commenced, the probable duration of the condition, and the appropriate medical facts within the knowledge of the provider regarding the condition. A second opinion may be required at town expense. The employee will retain all benefits normally associated with his/her job during the twelve-week period, including accrual of vacation and sick leave time. The town may waive the thirty-day notice requirement in the event an emergency condition exists.

(g) Sometimes in cases of serious illness, an employee through no fault of his/her own may not have sufficient sick time accrued to cover the entire illness. Individual employees may donate any portion of their accrued vacation time to a specific recipient by request to the finance director and approval of the town manager. Compensation shall be made on a day-for-day basis and at the pay level of the employee to be benefited.

(h) *Military family leave.* An employee who has been employed for at least twelve (12) months and has been employed for at least one thousand two hundred fifty (1,250) hours of service during the immediately preceding twelve-month period may be entitled to up to fifteen (15) days of family military leave for the deployment of a spouse, domestic partner, or child for a period lasting longer than one hundred eighty (180) days with the state or United States. An employee requesting this leave must give at least fourteen (14) days' notice if requesting a leave of five (5) or more consecutive days. Employees requesting a shorter leave must give advanced notice. The town may require certification from the proper military authority to verify an employee's eligibility for the family military leave requested.

(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-8. Paid holidays.

(a) Employees in Category A, B and C are eligible for the following paid holidays: New Year's Day, Martin Luther King Day, Washington's Birthday, Patriot's Day, Memorial Day, Indepen-

PERSONNEL

§ 9.8-9

dence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, day after Thanksgiving, Christmas Day, one personal day, and one-half (1/2) day Christmas Eve.

(b) Holiday pay is to be considered equivalent to eight (8) hours' pay at regular rates for Category A and B employees, and equivalent to the average work day for a Category C, G and E employee. When the occasion warrants, employees may be required to work all or part of a holiday. Wage employees working a holiday shall receive regular time pay plus their applicable holiday pay, which is equivalent to two and one-half (2½) times their regular hourly wage. For situations where overtime occurs on a holiday, special rules may apply as referenced in the section 9.8-4.

(c) Employees who are on a leave of absence, medical or maternity leave without pay are not entitled to holiday pay. However, employees who are on workman's compensation and their official status as an employee has not been determined, are entitled to holiday pay.

(d) If a regular holiday falls on a Sunday, the following Monday is considered a holiday. If a regular holiday falls on a Saturday, the preceding Friday is considered as a holiday unless otherwise regulated by law. The library will be closed on Tuesday for a holiday that falls on a Sunday or Monday, and the library will be closed on Saturday for a holiday that falls on Saturday. (Ord. No. C2009-2, 2-12-09)

Sec. 9.8-9. Temporary leaves of absence.

(a) *Paid leave of absence.*

(1) Temporary leaves of absence are available to all employees who have successfully completed ninety (90) days probation. At the discretion of the town manager or his/her designee, the Town of Dexter may grant temporary leaves of absence without loss of pay, as follows:

a. For the purpose of attending conventions, seminars and conferences, or other job-related activities, pro-

§ 9.8-9

DEXTER CODE

vided a request is made to the town manager or his/her designee in writing at least five (5) working days before the leave is to begin.

- b. For any other reasons approved by the town manager provided that such leave shall not exceed four (4) hours in any given day.
 - c. For the purpose of religious observance, if the employee's religious convictions prohibit his/her working on a given day.
- (2) Employees who have successfully completed ninety (90) days probation, upon request to the town manager or his/her designee, will be granted temporary leaves of absence without loss of pay under the following circumstances:
- a. In the event of the death of the employee's spouse, child or parent, for a period not to exceed five (5) work days.
 - b. In the event of the death of a brother, sister, parent-in-law, grandparents, or other immediate family relative, for a period not to exceed three (3) work days.
- (3) Additional paid "personal days" may be granted at the discretion of the town manager or his/her designee. Also, leaves of absence may be granted at the discretion of the town manager or his/her designee, for the following reasons:
- a. Because of illness or injury which does not fall within the scope of situations section 9.8-6 described in section 9.8-7, or which extends beyond that period.
 - b. For any other reasons that the town manager or his/her designee consider appropriate.
 - c. The town council may require the employee and/or town manager to further justify absences in this category, if appropriate.

PERSONNEL

§ 9.8-10

(b) *Unpaid leave of absence.* For a leave of absence not covered by the "family/medical leave policy", a Category A or B employee may be granted a leave of absence without pay by the town manager for a period not to exceed sixty (60) days. Continued absence without having arranged for an extension may be deemed a resignation from employment with the town. While in this status an employee is entitled to retain the benefits normally associated with his/her position; however, vacation and medical/sick leave time will not accrue, nor will the individual be entitled to pay for holidays.

(c) *Disciplinary.* A leave of absence directed for disciplinary reasons will be unpaid. While in this status an employee is entitled to retain the benefits normally associated with his/her position; however, vacation and medical/sick leave time will not accrue, nor will the individual be entitled to pay for holidays. (Ord. No. C2009-2, 2-12-09)

Sec. 9.8-10. Employee physical condition and medical examinations requirements.

- (a) Physical condition.
- (1) Town employees performing duties that may require physically demanding activities are expected to maintain a weight and physical fitness profile that will permit safe and effective job performance without jeopardizing the employee's welfare or the welfare of others.
 - (2) State or federal requirements may dictate physical profiles and standards for certain public safety related positions. In the event that occurs, the employee will be expected to adhere to those requirements.

(b) At the discretion of the town manager or his/her designee, new employees may be required to submit to a pre-employment examination as a condition of hire. The purpose of this examination is to determine the employee's fitness to perform the duties of the position and to identify any limitations that would or could affect the welfare of either the employee or others. The health care provider shall complete an appropriate form concerning this examination, and the Town of Dexter shall pay the cost of the medical examination. Should the health care provider submit an

§ 9.8-10

DEXTER CODE

unsatisfactory report, the applicant may request, at his/her own expense, a second medical examination and opinion on fitness required for the job he/she is seeking.

(c) The Town of Dexter's employees may also be required to submit to additional medical examinations, at the town's expense, if the town believes that a situation has developed that might have an adverse effect upon the employee's welfare or the welfare of others, or upon the employee's inability to perform the essential functions of his or her position.

(d) If an employee must be removed from a position because he/she is physically unable to perform the assigned job, or does not meet the physical profile and conditions required of that position, he/she shall be given first consideration for any other job that is available with the town that he/she is physically able and qualified to perform. The employee will retain their original date of hire for the purpose of calculating vacation pay and sick pay. If a transfer is required, the employee will retain benefits and seniority, as well as being provided a rate of compensation equivalent to his/her previous position.

Note: In the event of any conflict with section 9.8-19, Alcohol and drug policy and testing procedures, the provisions of section 9.8-19 take precedence.
(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-11. Medical insurance coverage.

- (a) Medical/health insurance coverage.
 - (1) Employees in Categories A and B who were an employee of the Town of Dexter as of February 12, 1998, are eligible for family medical coverage, ninety (90) per cent of which is paid for by the town as provided under the conditions applicable to the town's current health/medical insurance provider. Employees will be responsible for a ten-per cent contribution toward the monthly premiums. Contributions will be calculated based on the employee's entitlement and made through payroll deduction.
 - (2) An employee who began employment with the town after February 12, 1998, and is a Category A or B employee,

PERSONNEL

§ 9.8-11

will be provided single person health/medical insurance coverage, ninety (90) per cent of which is paid for by the town. Employees will be responsible for a ten (10) per cent contribution toward the monthly premiums. Contributions will be calculated based on the employee's entitlement and made through payroll deduction. Additional qualifying persons (spouse and/or family members) may be covered under the town's program, but the employee must assume responsibility for payment of the arrangement, the town will pay ninety (90) per cent of the monthly premiums for the retiree; however, the retiree is responsible for payment of additional monthly premiums.

- (3) Medical/health insurance will become effective on the first day of the following month if a person is employed on or before the 15th. If employed after the 15th, medical/health insurance will become effective on the first day of the second full month of employment.
- (4) After attaining sixty (60) years of age, employees who retire with twenty-five (25) or more years of uninterrupted service with the town are eligible for individual medical and health coverage under the conditions applicable to the coverage provided by the town's current employee health and medical insurance program. Such coverage will continue until such time that the individual is eligible for coverage under the federal Medicare program. Under the terms of this for any additional persons covered under the town's existing group policy.
- (5) In the event an employee has other medical coverage, he/she may elect to waive medical/health insurance coverage under the town's program. Under such an arrangement the town will pay the employee an amount equaling one-half ($\frac{1}{2}$) the monthly premium that would be paid for single coverage. This amount would be included in the weekly paycheck and be subject to normal payroll withholding.
- (6) Federal law (COBRA at 29 U.S.C. Sec. 1161[a]) provides the opportunity for an employee to continue to be covered

§ 9.8-11

DEXTER CODE

by group medical/health insurance coverage for certain periods after employment ends, provided that the individual pays the required premiums.

(b) Life insurance is provided to employees in Category A and B. Life insurance coverage levels may vary depending on the amount annually earned by the employee. Premiums for life insurance are paid by the town.

(c) Workers/unemployment compensation is provided to all employees in all categories.

(d) A variety of other group insurance programs are available to town employees in Categories A, B and C. Premium payments for these programs are the responsibility of the individual and are generally paid through payroll deduction. Employees should consult with the finance officer for information concerning the types of insurance available.
(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-12. Retirement, resignation and layoffs.

(a) *Retirement.*

- (1) All employees are covered under the Federal Insurance Contribution Act (Social Security Tax and Medicare). The required contributions from both the employer and the employee will be paid in accordance with federal law.
- (2) Employees in Categories A, B and C are qualified to participate in the town's employee retirement program. This is a "participating" program in which the town will match individual employee contributions up to a maximum of 5.72 per cent of the employee's annual salary/wage. Several qualifying programs are available from which to select. Employees should consult with the finance officer to determine the type program and contribution level desired.

(b) *Resignation.*

- (1) All employees resigning from employment with the town shall submit a written notice at least fourteen (14) calen-

PERSONNEL

§ 9.8-13

dar days in advance of the last day of intended actual work. The town manager may permit a shorter period of notice if extenuating circumstances exist.

- (2) The effective date of the employee's resignation/termination with the town is considered to be the last day actually worked. Upon separation "in good standing", the town shall pay all wages owed as well as accrued vacation and sick time as applicable.

(c) *Layoffs.*

- (1) In the case of a layoff or reduction of personnel for lack of work or by reason of fiscal cutback, the laying off or demotion of employees within each job classification shall be determined by the length of service in the department, that is, the employee with the least seniority in the department shall be laid off or demoted first. In no case shall such layoff or demotion be construed as a dismissal for unsatisfactory performance.

- (2) Reinstatement within a classification shall be in order of seniority, that is, the employee with the highest seniority shall be rehired/reinstated first. The right to be rehired shall exist for a period of one (1) year from date of layoff (employee Categories D and E excepted). If a vacancy occurs within one (1) year of an employee's layoff from that position, he/she shall be offered the position prior to any advertising for applicants.

(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-13. Educational development.

(a) The Town of Dexter will reimburse reasonable expenses (including fees, meals, lodging and transportation) incurred by employees attending workshops, seminars, or other professional improvement sessions at the request of the town, and as approved by the town manager.

§ 9.8-13

DEXTER CODE

(b) Additionally, the Town of Dexter will reimburse employees for up to three (3) college-level courses per year. Course work must have direct impact on current job responsibilities, and must be pre-approved by the town manager or his/her designee. Mileage will not be paid for attendance at college-level courses. (Ord. No. C2009-2, 2-12-09)

Sec. 9.8-14. Worker's compensation benefits.

(a) All employees are covered under the Worker's Compensation Act of Maine. All employee injuries at work, no matter how slight, are to be reported to the employee's supervisor immediately. The supervisor must submit completed reports to the finance officer immediately.

(b) These accident report forms are to be filled out whether or not medical care is received and/or time from work is lost. If medical care is needed or if an employee misses work time due to the accident, town officials will follow procedures as required by law, to submit these reports and other necessary paperwork to the worker's compensation insurance company. Procedures to be followed, in the event of an accident, are posted in all Town of Dexter facilities.
(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-15. Jury/military duty.

(a) The Town of Dexter recognizes the obligation of its employees to serve as members of juries, or as subpoenaed witnesses, or as members of the armed forces.

(b) If the employee is called to serve on a jury the town will pay the difference between the fee received for jury duty and the amount of regular earnings lost, up to a limit of eight (8) hours per day, forty (40) hours per week.

(c) Military leave for employees entering the military service and for employees involved in military training will be provided as required by law.

PERSONNEL

§ 9.8-17

(d) Time spent on jury or military duty will be considered equal to regular working time; thus, employees will continue to accrue regular benefits.
(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-16. Legal protection.

(a) The town shall, with the consent of the employee, assume the defense of and shall indemnify any employee against, a claim which arises out of an act or omission occurring during the course or scope of his or her employment and for which the liability of the town is asserted under the Maine Tort Claims Act, so-called (14 M.R.S.A. § 8104 et seq.) or under any other statute or legislative authorization.

(b) The town may assume the defense and indemnify any employee against a claim which arises from an act or omission occurring within the scope of his or her employment and/or for which the town is not liable.

(c) The town shall have no obligation to defend and indemnify in the event the employee fails to notify the town within fifteen (15) days after receiving written notice of any claim against him or her or after the service of a summons and complaint upon him or her and if the town is prejudiced thereby.
(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-17. Performance evaluations.

(a) All Town of Dexter full-time employees will be evaluated on their performance annually by their immediate supervisor. The evaluations will be written, and in a format established by the town manager. Each evaluation will be reviewed by the supervisor with the employee. The town manager will review each performance appraisal, and the original document will be maintained in the permanent personnel records.

(b) All full-time department heads will be evaluated annually by the town manager, with input from the town council. Town councilors will be requested to provide their comments on each department head (both positive and negative) to the town manager. Comments may include a recommendation for, or against,

§ 9.8-17

DEXTER CODE

granting individual merit increases, and will be incorporated into the town manager's evaluations of each individual department head.

(c) Employees who are not meeting minimum standards will be placed on a probationary status for ninety (90) days. Employees on probation will not receive cost-of-living adjustments or any other category of pay increase. During the probationary period, the employee will be formally evaluated at the end of each thirty-day period. If, at the end of ninety (90) days, the employee is not progressing satisfactorily, employment will be terminated.

(d) Employees who meet minimum standards will receive cost-of-living adjustments as determined by the town council. Employees who exceed these requirements and perform above and beyond established standards may be submitted by their supervisor to the town manager and town council for consideration for individual merit increases. The town council has approval authority on all recommendations for merit increases. (Ord. No. C2009-2, 2-12-09)

Sec. 9.8-18. Work rules.

(a) *Public and employee relations.*

- (1) Employees are prohibited from engaging in any conduct which could reflect unfavorably upon the town or disrupt the efficient operation of the administration of the town. Town employees must avoid any action which might result in or create the impression of using public employment for private gain, giving preferential treatment to any person, or losing complete impartiality in conducting town business.
- (2) The cooperation of all employees is essential to efficiency. The public is entitled to the best service that the municipal government is capable of providing. Cooperation, courtesy and responsibility are the key elements of good service.
- (3) A town employee is prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loans, or any other item of monetary value from any person within or

PERSONNEL

§ 9.8-18

outside of town employment, whose interests may be affected by the employee's performance of his/her official duties. Acceptance of nominal gifts, food and refreshments in the ordinary course of business, or unsolicited advertising/promotional materials is permitted.

- (4) No employee shall engage in any commercial business activities other than his/her regular duties during work hours, nor shall the public workplace be used at any time for the conduct of commercial business activities which are not associated with municipal operation.
- (5) Many municipal employees have access to confidential information pertaining to persons and/or property in the town. Employees are prohibited from using such privileged information to their private advantage or to provide such information to friends or acquaintances. Each employee is charged with the responsibility of releasing only information which is required under the Maine "Right-To-Know" Law.
- (6) Municipal employees will not, directly or indirectly, use or allow the use of town property for other than official activities, except as authorized by the town manager.
- (7) Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to the appropriate department head.
- (8) Smoking is prohibited in all municipal buildings. This policy applies equally to all employees, volunteers, customers and visitors.
- (9) All full-time employees are authorized one (1) meal period each workday. The duration and scheduling of meal periods will be the responsibility of the respective department head.
- (10) Equipment and vehicles essential in accomplishing job duties are expensive and may be difficult to replace. When using property, employees are expected to exercise care, perform required maintenance, and comply with operating instructions, safety standards and guidelines.

§ 9.8-18

DEXTER CODE

Employees will notify respective department heads or designees if any equipment, machines, tools, or vehicles are damaged, defective, or in need of repair. The improper, careless, negligent, destructive, and/or unsafe use/operation of equipment/vehicles, as well as excessive/avoidable traffic violations can result in disciplinary action and possible termination of employment.

- (11) At times, situations such as severe weather, fire, power outages or natural disaster can disrupt routine operations, and in some cases may require closing of the work facility. When operations are officially closed due to such conditions, the time off from scheduled work will be paid at the regular rate.
- (12) All public announcements concerning the Town of Dexter must be coordinated with the town manager. If an employee, as a private citizen, wishes to make a public statement, the employee should make it clear that he/she is not acting in any capacity as an employee, or speaking for the town.

(b) The following section addresses workplace rule infractions and the associated disciplinary action. All employees are expected to abide by the work rules described below and will be subject to personnel actions as indicated. Disciplinary actions taken by a department head must be with the consent of the town manager. Disciplinary action taken by the town manager must be reported to the employee's department head.

- (1) *Failure to follow the rules listed below, or taking any of the actions listed below shall result in the following sequence of actions:*

First offense—Verbal warning

Second offense—Written warning

Third offense—Five-day suspension

Fourth offense—Dismissal

- a. Unexcused absence or tardiness from work when on the job.
- b. Interfering in any way in the work of others.

PERSONNEL

§ 9.8-18

- c. Failure to promptly report illness while on the job or injury incurred during performance of duties.
 - d. Failure to adhere to the provisions of this personnel policy.
 - e. Failure to follow established standard operating procedures (S.O.P.).
 - f. Demonstrating negligence which results in the breakage or abuse of equipment or waste of supplies or materials.
 - g. Failure to use safety devices as provided.
 - h. Use of profane language.
 - i. Conducting oneself in an unprofessional manner which may reflect adversely upon the town or places the town in a position of liability.
- (2) *Failure to follow the rules listed below, or taking any of the actions listed below shall result in the following sequence of actions:*

First offense—Five-day suspension

Second offense—Dismissal

- a. Making any false statement with the intent to obtain monetary awards or other benefits under false pretenses.
- b. Fighting with, or attempting to inflict bodily injury on any person while on town property or while on the job.
- c. Possession of alcoholic beverages or any illegal narcotics while on the job.
- d. Threatening, intimidating, coercing or interfering with fellow employees while on the job.
- e. Failure to carry out any reasonable order provided, however, that execution of such order would not endanger the health or safety of any employee.
- f. Refusal to work assigned shifts or participate in assigned tasks.
- g. Gambling on town property.

§ 9.8-18

DEXTER CODE

- (3) *Failure to follow the rules listed below, or taking any of the actions listed below shall result in immediate dismissal:*
- a. Drinking alcoholic beverages or using illegal narcotics while on the job.
 - b. Engaging in grossly immoral conduct.
 - c. Misrepresentation or falsification of personnel records.
 - d. Stealing or unauthorized removal of any equipment, materials, or any other property belonging to the town.
 - e. Possessing weapons, armaments, or explosives on town property to include but not be limited to firearms and tasers on town property during the employee's work hours. The one (1) exception would be uniformed, on-duty police officers or officers called in to work by Maine State Police, Penobscot or Piscataquis County Dispatch on an emergency basis or by the police officer in charge for a specific short-term project or duty. These officers may be in civilian clothes.
 - f. Willful destruction of municipal property.
- The aforementioned list is not meant to be all-inclusive and the town reserves the right to apply discipline that is appropriate to the situation after an investigation of the facts. (Note: In the event of any conflict with section 9.8-19, alcohol and drug policy and testing procedures, the provisions of section 9.8-19 take precedence.)
- (4) *Unpaid disciplinary suspension.* A disciplinary suspension will be unpaid. While in this status an employee is entitled to retain the benefits normally associated with his/her position; however, vacation and medical/sick leave time will not accrue, nor will the individual be entitled to pay for holidays.
- (c) *Suspension pending discharge.*
- (1) When the town needs time to investigate a situation, it may suspend an employee pending discharge until final

PERSONNEL

§ 9.8-19

disposition can be made. Generally, employee benefits will continue until a final determination is made. A suspension allows the town an opportunity to review the incident and the employee's record and to make a final disposition of the matter. This disposition shall be made within five (5) calendar days of the beginning of the suspension.

- (2) If as a result of the investigation, the suspension is found not to be justified, the employee shall be paid for any regularly scheduled days missed because of the suspension.

(Ord. No. C2009-2, 2-12-09; Ord. No. C2012-12, 8-9-12)

Sec. 9.8-19. Alcohol and drug policy and testing procedures.

(a) *Purpose.* The Town of Dexter is committed to a drug and alcohol-free workplace. In order to ensure the safety of its employees and the general public, as well as to comply with 49 CFI Part 382 and other pertinent federal laws, the town officers have adopted this employment policy. The town takes pride in its employees who perform critical duties in a truly effective manner with safety foremost in their minds. This policy strengthens our commitment to a safe workplace.

(b) *Program administrator.* The town manager is designated by the town as the alcohol/drug testing program administrator. The program administrator is responsible for answering question from drivers, employees or the public in general. The program administrator will maintain the confidentiality of all information relating to drug and alcohol testing. The program administrator may provide such information as necessary to enable the appropriate action to ensure compliance with this policy. In addition to his/her duties under this policy the program administrator is also responsible for compliance with the program administrator guidelines.

(c) *Scope of policy.* This policy applies to all regular full-time, part-time, seasonal, on-call and temporary employees who are required to hold a commercial driver's license (CDL) for their position. All applicants for employment positions requiring a CDL

§ 9.8-19

DEXTER CODE

are required to pass a drug test as a prerequisite of employment, prior to final hiring. Any applicant who fails a drug test shall not be hired, although may reapply for employment in the future. Any person who was employed on a part-time or on-call basis for the town at least once during 1995 and is employed at least once annually thereafter shall be considered a continuing employee for the purposes of this policy, and is not subject to all other provisions of this policy, and is not subject to pre-employment testing prior to recommencing work. However, such employees are subject to all other provisions of this policy. All covered employees shall receive a copy of this policy, as well as educational materials on alcohol and substance abuse.

(d) *Compliance with regulations.* All CDL employees subject to alcohol and drug testing must be in compliance with this policy at all times while working for the town. This includes all time spent operating commercial vehicles, as well as time spent maintaining or repairing those vehicles.

Note regarding independent contractors: Independent contractors and their employees who must hold a CDL for the contracted activity are subject to the requirements of 49 CFR Part 382 and are responsible for compliance with that and related laws. The town will not provide or pay for tests, evaluation or rehabilitation for independent contractors or their employees. The town shall make compliance with the law a condition of any contract that requires a CDL driver.

(e) *Substances tested.* When drug and alcohol screening is required by this policy, a breath test and/or urine test will be given to detect the following:

- (1) Alcohol;
- (2) Marijuana;
- (3) Cocaine;
- (4) Amphetamines;
- (5) Phencyclidine (PCP);
- (6) Opiates.

PERSONNEL

§ 9.8-19

(f) *Prescription drugs use.* Employees covered by this policy may use prescription drugs and "over-the-counter" medications provided that:

- (1) The prescription drugs or their generic equivalent have been prescribed to the employee within the past twelve (12) months by an authorized medical practitioner.
- (2) The employee does not consume prescribed drugs more often than as prescribed by the employee's physician.

PERSONNEL

§ 9.8-19

- (3) Any employee who has been informed that the medication could cause adverse side effects while working shall inform his/her supervisor prior to using these substances. The town at all times reserves the right to have a licensed physician determine if use of a prescription drug or medication by an employee produces an adverse effect. If such a finding is made, the town may notify the employee's doctor (with employee's permission) to determine if other medications are available that would not seriously affect the employee's ability to work safely. If an appropriate substitute medicine is not available, the town may limit the employee's work activities to non-safety sensitive duties.

(g) *Tests required.* All employees subject to this policy shall be tested for alcohol and/or controlled substances in the following circumstances:

- (1) *Pre-employment.* Drug tests will be conducted when an offer is made to hire an employee for a CDL position. The offer for employment is contingent on the applicant passing these tests. This includes existing employees who are applying for CDL positions.
- (2) *Random.* Drug and alcohol tests will be conducted on a random, unannounced basis. The number of annual drug tests shall equal fifty (50) per cent of the number of CDL-required positions while the number of annual alcohol tests shall equal twenty-five (25) per cent of the CDL-required positions. The town has entered into an agreement with a third party administrator (TPA) to randomly select the CDL employees for testing and then notify the program administrator of the person or persons chosen.
- (3) *Post-accident.* As soon as is practicable after an accident, the employees shall be tested for alcohol and drugs if:
 - a. The accident involved the loss of human life; or
 - b. The employee received a citation for a moving traffic violation arising from the accident.

§ 9.8-19

DEXTER CODE

- (4) *Reasonable suspicion.* All employees who exhibit to a trained supervisor signs and symptoms of alcohol and/or drug abuse while on the job, prior to reporting to work or just after work will be required to submit to an alcohol and/or drug test. The supervisor shall document the specific facts, symptoms or observations by completing a "reasonable suspicion record" form.

Note: Do not allow an employee to drive him/herself to the testing facility for a reasonable suspicion test. Instead, the supervisor or another employee should provide transportation to the testing facility.

- (5) *Return-to-duty.* An employee who engaged in conduct prohibited by subsection (i) must submit to an alcohol test and drug test to return to duty. The results of an alcohol test must be less than 0.02 to return to duty.
- (6) *Follow-up.* An employee who previously tested positive and has returned to duty must submit to a combination of at least six (6) alcohol and drug tests during the first year after returning to work. Follow-up tests will be unannounced and may continue for up to sixty (60) months after returning to work, not to exceed twelve (12) a year.

(h) *Testing procedures.*

- (1) *Drug testing:* Drug testing is accomplished by analyzing the employee's urine specimen (urinalysis). Specimens will be collected at an off-site facility selected by the town. Once the employee provides the urine specimen, it is sealed and labeled by a certified/authorized agent of the testing facility. A chain of custody document is completed in the presence of the employee, and the specimen is shipped to a laboratory that is certified in accordance with DHS guidelines or equivalent guidelines.

- a. All urinalysis procedures are required to include split-specimen techniques. Each urine sample is subdivided into two (2) containers and labeled as primary and split specimens. Both specimens are forwarded to the laboratory. Only the primary specimen is used in the urinalysis. In the event of a

PERSONNEL

§ 9.8-19

- confirmed positive, the specimen may be used for a second confirmation test if requested by the employee.
- b. During testing, an initial screening test is performed. If the test is positive for one (1) or more drugs, a confirmation test will be performed for each individual drug using gas chromatography/mass spectrometry (GC/MS) analysis. This test ensures that over-the-counter medications are not reported as positive results. If the analysis of the primary specimen results in a confirmed positive test, the employee may within seventy-two (72) hours request that the split specimen also be tested at a certified laboratory of his choice. The second test is at the employee's expense unless the test is negative, in which case the town will reimburse the employee.
 - c. All test results are reviewed by a medical review officer (MRO) prior to results being reported to the town. In the event of a positive test result, the MRO will first attempt to contact the employee and conduct an interview to determine if there are any alternative legitimate reasons for the positive results (such as over-the-counter or prescription medications). If the MRO determines there is a legitimate medical explanation for the presence of drugs, the result will be reported as negative. If the MRO is unable to contact the employee, then the employer will be contacted and requested to advise the employee to contact the MRO.
 - d. Urine samples shall be provided in a private test room, stall or similar enclosure so that employees and applicants may not viewed while providing the sample. Employees and applicants may be required to disrobe and will be given hospital gowns to wear while providing test samples in order to ensure that there is no tampering. Street clothes, bags, briefcases, purses and other containers may not be carried into the test area. The water in the commode, if any, shall be colored with dye to protect against

§ 9.8-19

DEXTER CODE

dilution of test samples. An applicant or employee may waive the right to privacy and provide the urine sample in the presence of a witness (of the same gender) and not be required to disrobe and wear a hospital gown.

- (2) *Alcohol testing:* Alcohol testing will be conducted using an evidential breath testing (EBT) device. The breath test must be performed by a certified breath alcohol technician (BAT) trained in the use EBT and alcohol testing procedures. Under certain circumstances, post-accident tests conducted by law enforcement personnel or medical personnel will be acceptable. Two (2) breath tests are required to determine if an individual is over the alcohol concentration limit permitted. Any result of less than 0.02 concentration is considered a negative result. Any result of 0.02 or greater requires a conformation test. A confirmed test of 0.02 or greater is considered a positive result.

(i) *Prohibited conduct.*

- (1) Employees shall not:
- a. Report to work and/or remain on duty with an alcohol concentration of 0.04 or greater;
 - b. Possess any alcohol while on duty;
 - c. Use any alcohol while on duty;
 - d. Use any alcohol within four (4) hours before going on duty;
 - e. Use any alcohol within eight (8) hours after an accident for which the CDL employee must be tested for alcohol concentration;
 - f. Refuse to submit to the following alcohol and/or controlled substances tests: random test, reasonable suspicion test, post-accident test, or follow-test;
 - g. Report to or remain on duty when using any controlled substance, except when used under a physician's orders and when the physician has informed the CDL employee in writing that the use

PERSONNEL

§ 9.8-19

will not affect the safe operations of a commercial vehicle. In the case of a written warning by the physician, the employee shall report this to his/her supervisor immediately;

- h. Report to or remain on duty if employee tests positive for controlled substance.
- (2) Failure to comply with these rules is a violation of this policy and may result in disciplinary action and shall result in referral to a substance abuse professional.

(j) *Refusal to test.* An employee's failure to submit to testing may result in disciplinary action up to and including dismissal, and is also grounds for referral to a substance abuse professional. Failure to submit to a test by an applicant will result in denial of employment. Specifically, the following circumstances may be considered a refusal to test:

- (1) Failure to report to the designated testing area immediately after being notified to submit to an alcohol or drug test.
- (2) Failure to accurately provide a sufficient sample to be tested, either breath or urine as the case may be, unless medically determined to be unable to do so.
- (3) Engaging in conduct that clearly obstructs or delays the testing process.
- (k) *Alcohol concentration of 0.02 or greater but less than 0.04.*
 - (1) Provided that the employee has not violated subsection (i), any employee whose alcohol test results in a concentration of 0.02 or greater but less than 0.04 shall not be permitted to perform any safety-sensitive function for at least twenty-four (24) hours following the test.
 - (2) The employee will not be paid for work time lost as a result of this subsection unless he/she works in another capacity for the town during that time period. The employee will not be required to undergo evaluation by a substance abuse professional if the test result is 0.02 or greater but less than 0.04, nor will a return-to-duty test

§ 9.8-19

DEXTER CODE

be required unless there is a reasonable suspicion that the employee is still under the influence of alcohol or drugs.

Note: This subsection applies only to limited situations. For example, if an employee last consumed alcohol more than four (4) hours before work, but still has a blood/alcohol level of .03 when he/she shows up for work, he/she is not in violation of subsection (i), but is subject to this subsection.

(l) *Notice and consent.* Before a drug or alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting the release of test results to those officials with a need to know. The chemical screen consent form shall provide space to indicate current or recent use of prescription and over-the-counter medication. All recruitment announcements for any CDL position, including in-house recruitment and promotion, will disclose that a drug screening test will be required of the applicant.

(m) *Consequences of violation of this policy.*

- (1) Any employee who violates this policy shall be immediately removed from the safety-sensitive function and will be advised by the town of the resources available for evaluating and resolving drug and alcohol abuse problems. The employee is required to be evaluated by a substance abuse professional. All evaluation and rehabilitation shall be at the employee's cost unless otherwise agreed by the town. An employee shall not be allowed to return to the safety-sensitive function until he/she has a return-to-duty alcohol test result of less than 0.02 or a return-to-duty drug test with a verified negative result.
- (2) In addition, any employee who violates this policy may be subject to disciplinary action up to and including dismissal. Before discipline, reassignment or dismissal is imposed following a confirmed positive drug test, the employee shall have the opportunity to participate for up to six (6) months in a rehabilitation program. The employee is responsible for all costs associated with the rehabilitation program unless otherwise agreed by the

PERSONNEL

§ 9.8-19

town*. Factors to be considered in determining the appropriate disciplinary response include, but are not limited to the following: Employee's work history, length of employment, current job performance and existence of past disciplinary actions. Disciplinary action is imposed by municipal policy; it is not required by federal law.

- (3) Further grounds for discipline or dismissal under municipal policy include, but are not limited to:
 - a. Refusal to submit to a rehabilitation program after testing positive.
 - b. Failure within six (6) months to successfully complete a rehabilitation program after commencing the program, or failure to pass a return-to-duty drug or alcohol test.
 - c. Evidence that the employee has substituted, adulterated, diluted or otherwise tampered with his/her urine sample.
 - d. Failure to contact a substance abuse professional within (5) regular working days after being notified of a confirmed (MRO-certified) positive test for the improper use of alcohol or unauthorized substances.
- (4) During the period the town is awaiting an employee's test result for a post-accident test, reasonable suspicion test, or return-to-duty test, the town may transfer the employee to another position with or without reduction in pay or benefits. The town also reserves the right to place an employee on unpaid suspension to reduce any possible safety hazard. A determination as to whether an employee is placed in another position or placed on paid or unpaid suspension may be based on, but is not limited to: who is responsible for and/or the severity of the accident if applicable; the observed condition of the employee, if applicable; the employee's work history; length of employment; current job performance and the existence of past

*Under state law, if part or all the costs of drug abuse rehabilitation are covered by a group health insurance plan that includes the employee in question, then such insurance may be used by the employee for that purpose. See 26 M.R.S.A. § 685 as amended by 1995 PL.344.

§ 9.8-19

DEXTER CODE

disciplinary actions. Action taken by the town under this subsection is a matter of municipal policy; and is not imposed by federal law.

(n) *Employee/applicant rights and responsibilities.*

- (1) In the event of a confirmed positive test result, employees and job applicants shall have the opportunity to present an alternative explanation for the test result by contacting the medical review officer (MRO). This shall be done within seventy-two (72) hours after notification of the confirmed result. No further action will be taken if there is a justified explanation, or there is a reasonable doubt as to the accuracy of the result or chain of custody of the sample.
- (2) Any employee with a positive test result may, upon written request to the program administrator, have the right to any information relating to the test result and procedures. A job applicant may request information concerning the test result within sixty (60) days after the decision on his/her employment application.
- (3) Upon successfully completing a rehabilitation program within six (6) months after it commences and upon passing a return-to-duty drug test, the employee is entitled to return to his/her previous job with full pay (but not back pay) and accrued benefits, unless conditions unrelated to the employee's previous test make the employee's return impossible or inappropriate. The rehabilitation or treatment provider in consultation with the program administrator shall determine whether the employee has successfully completed the rehabilitation program. The town is not required to hold the employee's job open for more than six (6) months after the employee commences a rehabilitation program. The employee may apply accrued vacation and sick leave, if any, against the time period where he or she is unavailable for work due to drug abuse rehabilitation.

(o) *Confidentiality of information.* Unless the employee or applicant consents, all information acquired by the town in connections with the testing processes is confidential and may not

PERSONNEL

§ 9.8-20

be released to any person other than to the employee or the applicant who is tested, the program administrator, officials with a need to know, and the rehabilitation provider. The foregoing shall not prevent the release of information that is required or permitted by state or federal law, or the use of information in a grievance procedure, administrative hearing or lawsuit relating to the imposition of the test or the use of the test results.

(p) *Documents provided.* The town will provide each person subject to this policy a copy of the policy. The town will also provide printed material which describes the effects of alcohol and/or controlled substances on the individual's health, work and personal life, as well as the information of the signs and symptoms of alcohol or controlled substances and methods of treatment or intervention for drug or alcohol abuse.

(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-20. Sexual harassment and unlawful discrimination policy.

(a) The Town of Dexter is an equal opportunity employer with an employee tradition of dedication, high performance, personal development, and professional demeanor. It is expected that every town employee will treat every other town employee with respect, courtesy, supportiveness and professionalism. It is also expected that no town employee will interfere with any other town employee's ability to work. This includes, but is not limited to, sexual harassment, physical abuse and verbal abuse, which includes making professionally damaging statements about others. Failure to meet this expectation is grounds for suspension or dismissal. Ordinarily issues of this kind are dealt with through the regular supervisory relationship. Where that is not feasible, every town employee has recourse to the next higher supervisor and or the individual, who is the designated sexual harassment representative.

(b) Sexual harassment is a violation of laws against discrimination (State of Maine Law, and Title VII of the Civil Rights Act of 1964). Sexual harassment is defined as unwelcome sexual advances; suggestive or lewd remarks; unwanted hugs, touches,

§ 9.8-20

DEXTER CODE

kisses; requests for sexual favors; or retaliation for complaining about sexual harassment; or other verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- (2) Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
- (3) 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.

(c) No employee will be subject to any form of retaliation or discipline for pursuing in good faith a harassment or discrimination complaint or for participating in the investigation of any such complaint.

(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-21. Termination for cause.

(a) Employees (Categories A, B and C) shall not be terminated without adequate warning and/or sufficient cause. The town manager shall be notified and must concur with the action, prior to termination of any employee. All adverse personnel actions leading to employee termination shall be communicated to the employee in a timely manner and shall not be allowed to accumulate without his/her knowledge.

(b) The town manager shall hold a pre-termination meeting with an employee prior to any decision to terminate employment. The town manager shall discuss with the employee the work performance or conduct that may be grounds for termination.

(c) Notice of any action against an employee must be in writing and filed with the employee not later than the effective date of such action. The notice shall specify the penalty and contain a statement of the reason or reasons for the action.

Supp. No. 32

670.22

PERSONNEL

§ 9.8-22

(d) If an employee disputes the termination, he/she may appeal the action using the grievance procedure as described in this handbook. If the employee is subsequently found to be terminated without just and sufficient cause, he/she shall be reinstated with full pay and allowances for all time lost. (Ord. No. C2009-2, 2-12-09)

Sec. 9.8-22. Grievance procedure.

(a) A grievance is defined as any dispute between an employee and his/her supervisor (or anyone else in management) which concerns the claim of breach or violation of work rules; or the interpretation, effect, or application of work rules. Work rules are established herein and/or by state and federal statutes. Every effort shall be made to settle any such dispute to the satisfaction of all concerned at the earliest possible time.

(b) The following steps shall be followed in the grievance resolutions process:

- (1) The grieving party shall attempt to reach a verbal agreement with his/her supervisor or the appropriate department head.
- (2) If a verbal agreement cannot be attained, the grieving party may file a written complaint within five (5) working days to the appropriate department head. The department head shall review the complaint and render a decision and written response within three (3) working days.
- (3) If the department head's decision is not satisfactory to the grievant; the grievant may request the town clerk within five (5) working days that a personnel advisory board be convened to consider the case. The personnel advisory board shall meet within ten (10) working days after the request of the grievant is received. The personnel advisory board, after review of all the facts, will make a recommendation to the town manager for a final decision on the matter within five (5) working days. Whether or not the personnel advisory board is convened, once ad-

§ 9.8-22

DEXTER CODE

vised, the town manager shall provide a written decision to the aggrieved party within three (3) working days, and notify the council chair of such action.

- (4) If the decision of the town manager is not satisfactory, the grievant may present an appeal to the town clerk to present to the town board of appeals. The board of appeals shall render its decision in conformance with the Town of Dexter Codes. The board of appeals may sustain, reverse, or modify the action taken against the employee, and may order restoration of lost wages.
- (5) If the grievance is directly against the town manager, the foregoing procedure will still be used, except that, under section (3), if the manager's response is not satisfactory to the grievant, the grievant shall request the town clerk within five (5) working days to convene the personnel advisory board to consider the case. The personnel advisory board shall meet within ten (10) working days after the request of the grievant is received. The recommendation of the personnel advisory board will be binding.
- (6) Finally, if the grieving party remains dissatisfied, he/she may appeal through the court system, at his/her own expense, beginning with superior court.

(c) Any party may be represented by counsel or the person of their choice. In the event the employee waives the right to be represented, the town may waive its right to be represented. All proceedings will be conducted so as to respect the privacy of the individuals involved. While technical rules of evidence shall not apply, testimony and evidence shall be limited to the grievance at issue.

(Ord. No. C2009-2, 2-12-09; Ord. No. C2010-16, 11-10-10)

Sec. 9.8-23. Promotion and procedures.

(a) The Town of Dexter is an equal opportunity employer and pursues a policy of nondiscrimination in its personnel practices. This includes: Recruiting, hiring, opportunities for transfer and promotion, conditions or privileges of employment, as well as compensation and benefits. Such practices or procedures shall not favor or penalize any person because of race, creed, color, sex,

PERSONNEL

§ 9.8-23

sexual orientation, religion, disability, age, veteran status or national or ethnic origin or other status protected by law where these are not found to be bona fide occupational qualifications.

(b) First preference in filling any vacancy shall be given to the promotion or transfer of present employees having the qualifications for the vacant position. However, it is recognized that in order to meet specific requirements for a position, it may be necessary to hire from outside the organization. Such a decision shall only be made after a careful review of the qualifications and/or training requirements of present town employees who indicate an interest in the position.

(c) Following review of possible candidates to fill the position from within the organization, public notice must be given relating to the availability of a vacant position. Notice must include at least one (1) advertisement in a local/regional newspaper. Adequate time to respond to employment notices shall be provided to applicants.

(d) Department heads are authorized to initiate the hiring process of new employees under their supervision by notifying the town manager. The department head will then advertise, interview, hire and notify the town manager and the finance officer. Department heads are discouraged from hiring immediate relatives. Department heads will be hired by the interview management team consisting of the town manager, assistant town manager, finance officer and the existing department head, if available, subject to the approval of the town council. The town manager and town assessor will be hired exclusively at the discretion of the town council. Assuming an adequate number of suitable applicants respond to the job vacancy announcement, at least three (3) candidates may be interviewed by the respective department head/town manager/town council/interview management team prior to final selection of the new employee.

(e) All prospective employees must submit a completed application for employment or an acceptable substitute, e.g., a resume and accompanying background and reference information. Note: Seasonal and temporary employees must re-apply each year or job cycle for positions.

§ 9.8-23

DEXTER CODE

(f) As a general rule, in order to avoid any appearance of impropriety, the town shall refrain from employing immediate relatives in the same department. Any departure from this general policy must be thoroughly justified, and approved by the town manager. For purposes of definition, an immediate relative shall include any of the following: Spouse, parents, siblings, children (to include step-children) and in-laws.

(g) All new employees (Category A, B and C) will be on a probationary status for the first ninety (90) days of employment. The probationary period shall be considered an extension of the selection process. Probationary employees may be removed at any time during the probationary period without cause and without right to file a grievance.

(h) All new employees (Categories A, B and C) will be provided a confirmation of employment letter which outlines the basic conditions of employment, including starting wage/salary, probationary details and explanation of benefits.

(i) Federal and state child labor laws apply to the hiring and employment of minors. Persons under sixteen (16) years of age require a work permit from the school district which must be on file with the town prior to the commencement of employment. (Ord. No. C2009-2, 2-12-09)

Sec. 9.8-24. Whistleblower protection.

It is illegal for the town to fire you, threaten you, retaliate against you or treat you differently because:

- (1) You reported a violation of the law;
- (2) You reported something that risks someone's health or safety;
- (3) You have refused to do something that will endanger your life or someone else's life and you have asked the town to correct it; or
- (4) You have been involved in an investigation or hearing held by the government.

PERSONNEL

§ 9.8-25

You are protected by the policy only if:

- (1) You tell the town manager about the problem and allow a reasonable time for it to be corrected; or
- (2) You have good reason to believe that the town manager will not correct the problem.

To report a violation, unsafe condition or practice or an illegal act, contact your department or the town manager.
(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-25. Electronic mail policy.

(a) *Purpose.* Electronic mail, internet and telecommunication access are resources made available to town employees to communicate with each other, other governmental entities, companies and individuals for the benefit of the town. Personal use of these communication systems is limited to personal, off-duty time.

(b) *Electronic mail policy.*

- (1) The Town of Dexter electronic mail system (e-mail) is designed to facilitate town business communications among employees and other business associates for messages or memoranda. Since no computer system is completely secure, the e-mail system is not intended to transmit sensitive materials, such as personnel decisions and other similar information which may be more appropriately communicated by written memorandum or personal conversation.
- (2) The e-mail system is town property and intended for town business. The system is not to be used for employee personal gain or to support or advocate for non-town-related business or purposes. All data and other electronic messages within the system are the property of the Town of Dexter. E-mail messages have been found to be public records and may be subject to the right-to-know laws, depending on their content.

§ 9.8-25

DEXTER CODE

- (3) In addition, the town, through its manager and supervisors, reserves the right to review the contents of employee's e-mail communications. Employees have no right to privacy with respect to any e-mail communications.
- (4) The Town of Dexter, through its town manager, purchases, owns and administers the necessary software and licenses to provide access to e-mail and internet services. Employees may not rent, copy or loan the software or its documentation. The town has invested much time and money to secure its electronic systems from intrusion and harmful viruses. Therefore employees may not provide or download any software program not approved by the town. Employees may be held responsible for any damages caused by using unauthorized software or viruses they introduce into the town system.
 - a. *General information on passwords.* While users may have a confidential password, users should be aware that this does not mean that the system is for personal, confidential communication, nor does it suggest that e-mail is the property right of the employee. The use of the e-mail system is for town business.
 - b. *Prohibited uses.* When sending e-mail messages, appropriateness and good judgment should be used. The following e-mail uses are prohibited, including, but not limited to:
 1. Communications that in any way may be construed by others as disruptive, offensive, abusive or threatening;
 2. Communications of sexually explicit images or messages;
 3. Communications that contain ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on race, national origin, sex, sexual orientation, age, disability or religious beliefs;
 4. Solicitation for commercial ventures, religious or political causes, outside organizations, or other nonjob related solicitations; and

PERSONNEL

§ 9.8-25

5. Any other use that may compromise the integrity of the town and its business in any way.
- c. *Retention of e-mail.*
1. Generally, e-mail messages are intended to be temporary communications that are nonvital and may be discarded routinely. However, depending on the content of the e-mail message, it may be considered a more formal record and should be retained pursuant to a department's record retention schedules. As such, these e-mail messages are similar to print communication and should be written with the same care.
 2. Employees should be aware that when they have deleted a message from their workstation mailbox it might not have been deleted from the central e-mail system. The message may be residing in the recipient's mailbox or forwarded to other recipients. Furthermore, the message may be stored on the computer's back-up system for an indefinite period. Note that e-mail has been classified as "public" documents, i.e., available to the media, in at least one (1) state. Keep that in mind when you create or store e-mail.
 3. Employees should delete e-mail messages that are not deemed to be a formal record as soon as possible after reading. An accumulation of files will degrade system performance and response times. Contact the town manager if you are unsure as to whether to retain messages.
 4. This e-mail policy applies to all employees, contractors, part-time employees, volunteers, and other individuals who are provided access to the town's e-mail system. Third parties should only be provided access to the e-mail system as necessary for their business purpose with the town and only if they abide by all applicable rules.

§ 9.8-25

DEXTER CODE

- d. *Effect of employee separation on e-mail access.* Employees who leave employment with the town have no right to the contents of their e-mail messages and are not allowed access to the e-mail system.

- (c) *Internet policy.*

- (1) The internet provides the town with significant access and dissemination of information to individuals outside of the town. The use of the internet system for access and dissemination of information is intended to serve town business. Like all e-mail messages, internet messages are capable of being forwarded without the express permission of the original author. E-mail messages are also routinely passed through routers before they reach their final destination. A message is "touched" many times before it gets to its recipient, and the message author should be aware of this. Therefore, users must use caution in the transmission and dissemination of messages outside of the town, and must comply with all state and federal laws.
- (2) Just as employees have no right of privacy with respect to the content of their e-mail communications, employees do not have any right of privacy with respect to their internet use. The town reserves the right to review or monitor all employees' internet use, including sites viewed and viewing time.
- (3) The viewing of pornographic or sexually oriented sites is strictly prohibited.

(d) *Penalties.* The misuse of the internet or e-mail privileges may be considered sufficient cause for discipline in accordance with the personnel policy and/or other applicable rules or laws. In addition, violations of this policy or misuse of the e-mail system may be referred for criminal prosecution.

PERSONNEL

§ 9.8-27

(e) *Agreement to internet and electronic mail policy.* The town will require employees to read and signify acceptance of the terms of this policy by signing the following agreement before making electronic systems available:

I have read and agree to the specifics as stated in the attached Internet and Electronic Mail Policy, which include the following:

1. Use of the Internet and e-mail systems is intended for the furthering of the business of this municipality.
2. I may not intentionally intercept, eavesdrop, record, read, alter, or receive other persons' e-mail messages without proper authorization.
3. I may not use the e-mail system for solicitation of funds, political messages, obscene or harassing messages, or other messages which violate the Policy.
4. The Internet and E-mail systems are the property of the Town of Dexter and may be accessed for review and monitoring by supervisors and Town Manager.

Name _____

Date _____

(Ord. No. C2008-8, 10-9-08)

Sec. 9.8-26. Duration.

These policies are effective upon approval by the town council and will continue in effect until revised by the town council.

(Ord. No. C2009-2, 2-12-09)

Sec. 9.8-27. Severability.

If any provision or section of this policy is held invalid because of contravention of the laws or regulations of the State of Maine or of the United States, the other provisions or sections of the policy shall not be affected thereby. If the application of the policy or any of its provisions to any person or circumstance is held invalid, the policy and its applications to other persons or circumstances shall not be affected.

(Ord. No. C2009-2, 2-12-09)