

**TOWN
OF
ORCHARD PARK
PERSONNEL POLICY
MANUAL**

Adopted by Town of Orchard Park 12/05/2018
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Town Supervisor

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General Policy Manual Acknowledgment
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ARTICLE I – GOVERNING PRINCIPLES OF EMPLOYMENT

1.01 Introduction

For those of you who are commencing employment with the Town of Orchard Park (“the Town” or “Orchard Park”), on behalf of the Town, let me extend a warm and sincere welcome. We hope you will enjoy your work here. We are glad to have you with us.

For those of you, who have been with us, thank you for your past and continued service.

I extend to you my personal best wishes for your success and happiness here with the Town. We understand that it is our Employees who provide the services that our community relies upon, and who grow and enable us to create new opportunities in the years to come.

Town Supervisor

History

In the years since its beginnings, Orchard Park has seen many changes, yet it could still be considered somewhat rural with its many farms and expanses of land. The Town enjoys a superior centralized school system, many cultural opportunities such as the Orchard Park Symphony, the summer Pavilion, and the Quaker Arts Festival, and a generally serene lifestyle. The labors and dedication to duty of all of its pioneers cannot be overestimated. They transformed a vast wilderness into a lovely community. They brought with them an estimable work ethic, a strong sense of fairness, and spirit of community harmony. They also left the Town a legacy of graceful, functional landmarks built as their residences, community centers, and public places. They now speak to Orchard Park of their culture, lifestyle, and values. Their architectural vestiges give character to its tranquil byways and have served to inspire modern likenesses. Yes, the footprints of the Town’s pioneers left an indelible impression on the character of this community, an impression nourished by discerning continued cultivation of “nature’s garden” as the community looks to their future.

About this Policy Manual/DISCLAIMER

We prepared this Policy Manual to assist you in finding the answers to many questions that you may have regarding your employment with the Town. Please take the necessary time to read it.

We do not expect this Policy Manual to answer all of your questions. Your supervisor, Department Head or is designated representative also will be a major source of information.

Neither this Policy Manual nor any other verbal or written communication by a representative of the Town, is, nor should it be considered to be, an agreement, contract of employment, express or implied, or a promise of treatment in any particular manner in any given situation. No one is authorized to provide any Employee with an employment contract or special arrangement concerning terms or conditions of employment.

Many matters covered by this Policy Manual, such as benefit plan descriptions, are also described in separate Town documents. These Town documents are always controlling over any statement made in this Policy Manual or by any member of management.

This Policy Manual states only general Town guidelines. The Town may, at any time, in its sole discretion, modify or vary from anything stated in the Policy Manual, with or without notice.

This Policy Manual supersedes all prior Policy Manuals.

1.02 Classification of Employees

A. Employee Groups

For purposed of this Policy Manual, all Employees fall within one of the Following classifications:

- Group 1 Elected Officials: Councilman, Supervisor, Town Clerk, Superintendant of Highways, Town Justice.
- Group 2 Appointed Positions: Deputy Town Attorney, Town Attorney, Town Prosecutor.
- Group 3 Fulltime regular employees categorized exempt and not represented by a recognized collective bargaining unit. Including but not limited to: Assessor, Assistant Municipal Engineer, Assistant Network Coordinator, Assistant Police Chief, Director of Recreation, Network Coordinator, Police Chief, Recreation Specialist, Supervising Code Enforcement Officer, Town Engineer.
- Group 4 Fulltime regular employees categorized non-exempt and not represented by a recognized collective bargaining unit. Including, but not limited to: Bookkeeper, Clerk to Town Justice, Deputy Highway Superintendent, Deputy Receiver of Taxes and Assessments, Deputy Town Clerk, General Crew Chief, Payroll Clerk, Working Crew Chief, all employees in the Supervisor's Office.
- Group 5 Fulltime regular employees represented by the Civil Service Employees Association Local 1000 AFSCME, AFL-CIO, Town of Orchard Park Unit, No.6765.01.
- Group 6 Fulltime regular employees represented by the Civil Service Employees Association Local 1000, AFSCME, AFL-CIO, Orchard Park Unit, Local 815.
- Group 7 Fulltime regular employees represented by the Orchard Park Police Benevolent Association.
- Group 8 Fulltime regular employees represented by the Orchard Park Police Command Officers Association, Inc.
- Group 9 Part-time temporary and seasonal employees. Including, but not limited to: Account Clerk, Assistant Real Property Appraiser, Clerk, Laborer, Lifeguard, Public Safety Dispatcher, Recreation Attendant, Recreation Supervisor.
- Group 10 Part-time members appointed to boards. Including but not limited to: Conservation Board, Planning Board, and Zoning Board of Appeals.

B. Definitions

1. **Elected Officials** – as defined in the unclassified service of the Civil Service Law, Section 35.
2. **Appointed Positions** – as defined in the unclassified service or the Civil Service Law, Section 35.
3. **Fulltime Employee** – Works normal complete week on a regularly scheduled basis. (Normally thirty-seven and a half (37.5) or more per week.) The American Federation of State, County and Municipal Employees (AFSCME), represents some full-time Employees. Additional work rules governing the employment of bargaining unit Employees are contained in their collective bargaining agreements.
4. **Part-time Employees** – An employee works less than twenty (20) hours of a normal complete work week on a regular or irregular basis.
5. **Temporary Employee** – An employee hired for a specific period of time usually to temporarily replace a fulltime regular.
6. **Seasonal Employee** – Employed in a seasonal position, generally for peak periods or recreational employment or vacation replacement, not to exceed five (5) months per year from the start of employment.
7. **Exempt** – Executive, administrative and professional employees exempt from the provisions of the Fair Labor Standards Act.
8. **Non-Exempt** – Employees covered by the provision of the Fair Labor Standards Act.
9. **C.S.E.A. Unit No. 6765-01** – Fulltime, regularly employed personnel in the job titles: Assessment Clerk, Assistant Civil Engineer, Assistant Code Enforcement Officer, Assistant Director of Recreation, Aquatic Director , Assistant Maintenance Worker, Cleaner Attendant, Clerk, Clerk-Typist, Code Enforcement Officer, Construction Inspector, Dog Control Officer, Engineer Assistant, Junior Engineer, Land Surveyor, Maintenance Worker, Police Clerk, Principal Engineer Assistant, Public Safety Dispatcher, Senior Engineer Assistant, Real Property Appraiser , Senior Tax Map Technician,.
10. **C.S.E.A. Unit Local 815** – Fulltime regularly employed personnel in job titles: Heavy & Light Equipment Operators, Laborers, Mechanics, and Truck Drivers.
11. **Orchard Park Police Benevolent Association** – Fulltime regularly employed personnel in job titles: Police Officers, Detectives.
12. **Orchard Park Police Command Officers Association, Inc** – Fulltime regularly employed personnel in job titles: Police Captain, Police Lieutenant, and Lieutenant of Detectives.

1.03 Equal Employment Opportunity

Equal opportunity is the Town of Orchard Park's policy. It is the Town's policy to select the best qualified person for each position within the Town as prescribed by Federal and New York State Laws, regulations, and the current collective bargaining agreements. No Employee of the Town of Orchard Park will discriminate against an applicant for employment or a current Employee because of race, creed, color, religion, sex, national origin, ancestry, age, physical or mental handicap or because of the person's veteran status.

The Town will endeavor to make a reasonable accommodation to the known physical or mental limitations of qualified Employees with disabilities unless the accommodation would impose an undue hardship on the operation of our business. If you need assistance to perform your job duties because of a physical or mental condition, please notify the Town Supervisor or the appropriate individual as designated by the Town Board.

The Town will endeavor to accommodate the sincere religious beliefs of its Employees to the extent such accommodation does not pose an undue hardship on the Town's operations. If you wish to request such an accommodation, please speak to the Town Supervisor or the appropriate individual as designated by the Town Board.

Any Employees with questions or concerns about equal employment opportunities in the workplace are encouraged to bring these issues to the Town Supervisor or the appropriate individual as designated by the Town Board. The Town will not allow any form of retaliation against individuals who raise issues of equal employments opportunity. To ensure our workplace is free of artificial barriers, violation of this policy will lead to discipline, up to and including discharge.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

1.04 Non-Harassment

It is the Town's policy to prohibit intentional and unintentional harassment of any individual by another person on the basis of any protected classification including, but not limited to, race color, national origin, disability, religion, genetic information, marital status, sexual orientation or age. The purpose of this policy is not to regulate our Employee's personal morality, but to ensure that in the workplace, no one harasses another individual.

If you feel that you have been subjected to conduct which violates this policy, you should immediately report the matter to your supervisor, Department Head or his designated representative. If you are unable for any reason to contact your supervisor, or if you have not received a satisfactory response within five (5) business days after reporting any incident of what you perceive to be harassment, please contact the Town Supervisor or the appropriate individual as designated by the Town Board. Every report of perceived harassment will be fully investigated and corrective action will be taken where appropriate. Violation of this policy will result in disciplinary action, up to and including discharge. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed. In addition, the Town will not allow any form of retaliation against individuals who report unwelcome conduct to management or who cooperate in the investigations of such reports in accordance with this policy. Employees who make complaints in bad faith may be subject to disciplinary action, up to and including discharge.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

1.05 Sexual Harassment

The Town of Orchard Park is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the Town of Orchard Park's commitment to a discrimination-free work environment. Sexual harassment is against the law¹ and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with the Town of Orchard Park. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

Policy:

1. The Town of Orchard Park's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with the Town of Orchard Park. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The Town of Orchard Park will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of the Town of Orchard Park who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees² working in the workplace who believe they have been subject to such retaliation should inform a supervisor. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the Town of Orchard Park to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.

¹ While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

² A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

5. The Town of Orchard Park will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. The Town of Orchard Park will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. The Town of Orchard Park will provide all employees a complaint form for employees to report harassment and file complaints.
7. Supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Town Supervisor or the appropriate individual as designated by the Town Board.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

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

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media

usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

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

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

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

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. The Town of Orchard Park cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to the Town Supervisor or the appropriate individual as designated by the Town Board. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to the Town Supervisor or the appropriate individual as designated by the Town Board.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

All supervisors who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to the Town Supervisor or the appropriate individual as designated by the Town Board.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

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

Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The Town of Orchard Park will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, the Town Supervisor or the appropriate individual as designated by the Town Board will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;

- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections And External Remedies

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

Aside from the internal process at the Town of Orchard Park, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

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

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

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

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

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

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

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

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

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

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

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – applies.

Town of Orchard Park

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to the Town Supervisor or the appropriate individual as designated by the Town Board. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, your employer should complete this form, provide you with a copy and follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

COMPLAINANT INFORMATION

Name:

Work Address:

Work Phone:

Job Title:

Email:

Select Preferred Communication Method:

Email

Phone

In person

SUPERVISORY INFORMATION

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

COMPLAINT INFORMATION

- Your complaint of Sexual Harassment is made about:

Name:

Title:

Work Address:

Work Phone:

Relationship to you: Supervisor Subordinate Co-Worker Other

- Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

- Date(s) sexual harassment occurred:
Is the sexual harassment continuing? Yes No

- Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

The last question is optional, but may help the investigation.

- Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

Signature: _____

Date: _____

Instructions for Employers

If you receive a complaint about alleged sexual harassment, follow your sexual harassment prevention policy.

An investigation involves:

- Speaking with the employee
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

Document the findings of the investigation and basis for your decision along with any corrective actions taken and notify the employee and the individual(s) against whom the complaint was made. This may be done via email.

1.06 Probation Period

An employee shall serve a probationary period as set forth by Erie County Civil Service.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 9, 10 - None
- Group 3, 4 - Applies
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

1.07 Personnel File

Employees shall, upon request, be permitted to review their personnel file, provided that the examination of personnel files shall be by appointment with the Supervisor; shall take place only in the administrative offices where such files are maintained; and shall take place in the presence of a designated representative of the Town.

Employees may submit relevant materials for inclusion in their personnel file which are pertinent to performance and qualification.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 10 - None
- Group 1, 2, 3, 4, 9 - Applies
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

1.08 Fulltime Work Week

The fulltime work week for Employees shall be forty (40) hours starting on Saturday mornings at 12:00 am thru Friday evenings at 11:59 pm. Department Heads, subject to approval of the Town Board, shall determine the hours that an employee shall work on each day. All Employees shall be entitled to one half (1/2) hour paid lunch period and two (2) 15-minute breaks in each full work day. The time of lunch periods and time and place of breaks shall be determined by the Department Head. The purpose of these break periods is to provide a temporary respite during work periods. As such, a break may not be utilized at the start of the workday or at the end of the workday.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 9, 10 - None
- Group 3, 4 - Applies
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

ARTICLE II – COMPENSATION

2.01 Wages

The established wages and pay periods shall be determined by the Town Board annually.

Employees shall move to the next step in their job class range pay group effective the start of the next pay period following their own anniversary date of employment.

An Employee moving from one job title to another job title shall receive the next higher hourly rate in the new job title's pay group that would now become the anniversary date for movements in steps in that pay group.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 9, 10 - Applies
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

2.02 Daily and Hourly Rate

An Employee's regular daily rate of pay shall be determined by dividing their annual salary by the number of Mondays through Fridays in that calendar year.

An Employee's hourly rate, if appointed to a salary, shall be determined by dividing their regular daily rate of pay by eight (8).

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 9, 10 - None
- Group 3, 4 - Applies
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

2.03 Overtime Compensation

An Employee will receive time and one-half pay or time and one-half compensatory time off, at the discretion of the Department Head, for each hour worked over forty (40). Straight time pay or straight time compensatory time off, at the discretion of the Department Head, for each hour worked between thirty-five (35) and forty (40).

Compensatory time must be used during the fiscal year earned.

Overtime beyond the Employee's normal work week must be approved by your immediate supervisor. Supervisors shall ensure that no unauthorized overtime hours are worked.

Overtime shall be paid in the following manner to the respective employee classifications:

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 10 - None
- Group 4 - Time and one-half pay or time and one-half compensatory time off, at the discretion of the Department Head, for each hour worked over forty (40). Straight time pay or straight time compensatory time off, at the discretion of the Department Head, for each hour between thirty-five (35) and forty (40).
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement
- Group 9 - None, except when working more than forty (40) hours in a work week. This does not include employees working in a seasonal recreational job as defined in the Fair Labor Standards Act.

2.04 Mileage Reimbursement

Employees required, and authorized by the Department Head, to utilize their personal vehicle while performing Town business shall receive a mileage allowance for each mile used. The mileage allowance shall be set by the Town Board each January 1st.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 9, 10 - Applies
- Group 7, 8 - Refer to Collective Bargaining Agreement

2.05 Deferred Compensation

The Town shall provide a Deferred Compensation Program where an employee authorizes the Town to withhold and pay a portion of the employee's salary in the future. (See Payroll Office for details).

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 9, 10 - None
- Group 1, 2, 3, 4, 5, 6, 7, 8 - Applies

2.06 Direct Deposit

The Town strongly encourages all permanent Employees to use direct deposit. Authorization forms are available in the Accounting Office. (Part-time seasonal and temporary do not qualify)

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 10 – Applies
- Group 9 - None

2.07 Safety Shoes

Commencing on January 1, 2012, upon the submission of a receipt, non-union Employees engaged in “on-site” inspections of constructions sites, who go out in the field, in compliance with Public Employees Safety & Health regulations (P.E.S.H.), may be reimbursed for up to \$150.00 for one pair of approved safety shoes once every two (2) years: Assessor, Assistant Municipal Engineer, Supervising Code Enforcement Officer, and Town Engineer. NOTE: Deputy Superintendent of Highways, General Crew Chief, Highway Superintendent, , and Working Crew Chief get paid as per CSEA Blue Collar Collective Bargaining Agreement, ARTICLE XX, Section 20.03 – Clothing and Shoe Allowance.

ARTICLE III – BENEFITS

3.01 Benefits Overview / Disclaimer

In addition to good working conditions and competitive pay, it is the Town's policy to provide a combination of supplemental benefits to all eligible Employees. In keeping with this goal, each benefit program has been carefully devised. These benefits include time-off benefits, such as vacations and holidays, and insurance and other plan benefits. We are constantly studying and evaluating our benefits programs and policies to better meet your present and future requirements. These policies have been developed over the years and continue to be refined to keep up with changing times and needs.

The next few pages contain a brief outline of the benefits programs the Town provides for you and your family. Of course, the information presented here is intended to serve only as guidelines.

The descriptions of the insurance and other plan benefits merely highlight certain aspects of the applicable plans for your general information only. The details of those plans are spelled out in the official plan documents, which are available for review upon your request form, your supervisor. Additionally, the provisions of the plans, including eligibility and benefits provisions, are summarized in the summary plan descriptions ("SPDs") for the plans (which may be revised from time to time). In the determination of benefits and all other matters under each plan, the terms of the official plan documents shall govern over the language of any descriptions of the plans, including the SPDs and this Policy Manual.

Further, the Town (including the officers and administrators who are responsible for administering the plans) retains full discretionary authority to interpret the terms of the plans, as well as full discretionary authority with regard to administrative matters arising in connection with the plans and all issues concerning benefit terms, eligibility and entitlement.

While the Town intends to maintain these Employee benefits, it reserves the absolute right to modify, amend or terminate these benefits at any time and for any reason.

3.02 Benefits Eligibility

Eligibility to receive a benefit as set forth in this Personnel Policy manual shall begin the first of the month following six (6) months of employment with the Town or as determined by the Town Board. Health, dental, and life insurance benefits become available to Employees the first of the month following the Employee's hire date.

Holidays as set forth in Policy and Bereavement Leave as set forth in Policy shall be provided as the effective date of employment.

In the event an Employee has exhausted all of his/her accrued time, within the Personnel Policy, and is still not able to resume their job duties, doctor and hospitalization Insurance will be provided, as set for in the manual, for a period of not less than one (1) month nor more than twelve (12) months, depending on the Employee's length of service. Employees will accrue one (1) month of doctor and hospitalization coverage for each year of active service up to a maximum of twelve (12) months. The twelve (12) month accrual, when earned, can only be used as set forth in this paragraph, during an Employee's working career with the Town of Orchard Park and cannot be re-accrued when used. Example: Six (6) months accrued, when two (2) months are used, may only accrue six (6) months in the remaining work career.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4 - Applies
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement
- Group 9, 10 - None

3.03 VACATION

Vacation will be granted to Employees according to the following schedules:

Continuous Fulltime service with the Town of Orchard Park	Vacation Entitlement as of January 1st of each Calendar Year
One (1) year	Ten (10) days
Five (5) years	Fifteen (15) days
Twelve (12) years	Twenty (20) days
Eighteen (18) years	Twenty-five (25) days

Vacation granted to Employees hired on or after June 27, 2012 shall be entitled to vacation according to the following schedules:

Continuous Fulltime service with the Town of Orchard Park	Vacation Entitlement as of January 1st of each Calendar Year
One (1) year	Ten (10) days
Five (5) years	Fifteen (15) days
Fifteen (15) years	Twenty (20) days

Employees may request vacation at any time during the calendar year, provided that Employees shall not be permitted to schedule vacation prior to the date when such vacation has been actually earned. Every reasonable effort will be made to meet the preference of Employees in accordance with seniority. However, the Department Head may deny and reschedule requested vacation time when, in his/her determination, the granting of such request will adversely affect the operation of the Department.

Vacation pay shall be based on the employee's normal work day.

There shall be no accumulation of vacation benefits from one (1) year to the next, and vacation benefits for a given year shall expire on the last day of such calendar years.

Two weeks of an Employee's vacation allotment may be taken may be taken in single day increments. One (1) week of which may be taken in one-half (1/2) day increments (4) hours. Such request for one-half day (4 hours) of (1) day of vacation shall be made to the Department Head at least one (1) week prior to the date requested. The remaining vacation accrued must be taken in segments of at least one (1) week duration. Weeks take precedents over single days and half days. It is understood that all employees who receive payments on behalf of the Town for fees, fines or any payment, and are entitled to vacation allotments, are required to take at least five (5) consecutive work days of vacation in each calendar year.

An Employee who is laid off, retired, or whose job is abolished prior to taking their vacation, shall be paid for the unused vacation time accumulated at the time of separation. An Employee voluntarily leaving Town employment, retirement, or resigning, must give two (2) weeks notice to their Department Head prior to termination in order to be eligible for unused vacation pay. An Employee that fails to provide at least two weeks notice of his/her voluntary separation from employment forfeits any and all rights to pay for unused vacation and is not entitled to pay for any

unused vacation time. An Employee that is involuntarily terminated due to misconduct forfeits any and all rights to pay for unused vacation and is not entitled to pay for any unused vacation time.

In the event a holiday recognized by the Town, in this Agreement, falls during an Employee's vacation period, the Employee will receive an additional day of vacation.

Should an Employee become sick or injured during a vacation period, the vacation will not be rescheduled.

Department Heads could consider rescheduling an Employee's vacation. The decision rests solely with the Department Head.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 9, 10 - None
- Group 3, 4 - Applies, except Police Chief and Assistant Police Chief will follow Article X of the Command Officers Association Agreement
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

3.04 LONGEVITY

Employees shall receive the following longevity pay, per year, based only upon their continuous and uninterrupted years of fulltime service from the date of hire in the Town of Orchard Park.

Years of Service	Employees hired prior to June 27, 2012	Employees hired on or after June 27, 2012
Four (4)	489.00	200.00
Eight (8)	978.00	600.00
Twelve (12)	1467.00	1000.00
Sixteen (16)	1956.00	1500.00
Twenty (20)	2445.00	2000.00
Twenty-four (24)	2934.00	2200.00

**Capped at \$2934.00 for service beyond twenty-four (24) years by Employees hired prior to June 27, 2012. Capped at \$2200.00 for service beyond twenty-four (24) years by Employees hired on or after, to June 27, 2012.

Longevity pay shall be paid on or about the 1st pay in February. An Employee who reaches an additional amount due to years of service shall receive the difference as soon as practicable following the Employee's anniversary date. This adjustment shall only be done up to December 31st of each year.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 9, 10 - None
- Group 3, 4 - Applies, except Police Chief and Assistant Police Chief will follow Article V11 of the Command Officers Association Agreement
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

3.05 HOLIDAYS

Holidays enumerated below will be granted to Employees and shall be paid at their normal daily rate.

New Year's Day	Veteran's Day
President's Day	Thanksgiving Day
Good Friday	Day after Thanksgiving
Memorial Day	December 24
Independence Day	Christmas Day
Labor Day	Martin Luther King Day
Columbus Day	

When an Employee is required to work on one of the above observed holidays, they shall receive time and one half (1 ½) for all hours worked during that holiday, plus eight (8) straight time hours holiday pay. In the event an Employee is entitled to regular time off on a holiday, that person shall be entitled to additional time off over and above the holiday equal to holiday time off.

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

When Christmas Day falls on Saturday, Employees shall be entitled to a full day off on the preceding Friday and a full day off on the preceding Thursday, for December 24. When Christmas Day falls on Sunday, Employees shall be entitled to a full day off on the following Monday and a full day off on the preceding Friday, for December 24. When Christmas Day falls on Monday, Employees shall be entitled to a full day off on Monday and a full day off on the preceding Friday, for December 24.

In order to be paid for a holiday, Employees must work the entire last scheduled day of work before a holiday, **AND** the first scheduled day of work after a holiday. The Town may excuse an Employee's absence in its discretion if good cause is shown by the Employee.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 9, 10 - None
- Group 3, 4 - Applies, except Police Chief and Assistant Police Chief will follow Article XI of the Command Officers Association Agreement
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

3.06 JURY DUTY

An Employee who is summoned and is actually required to attend and serve as a juror will be paid the difference between the juror's fee and up to eight (8) hours straight time pay per day for time actually lost from work due to such jury duty. Jury duty pay is limited only to jury service performed during the scheduled work week.

The Employee shall be required to:

- a) Notify his/her immediate supervisor as soon as possible before the day the Employee is required to report for jury service.
- b) Return to his immediate supervisor a completed form certified by the Court Clerk.
- c) Cooperate with the Town in requesting excuse or delay from jury service where the Employee's absence will adversely affect the Town's operations.
- d) Employees will report back to work at anytime when they are free from the responsibilities of jury duty service during his/her scheduled work hours.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 9, 10 - None
- Group 3, 4 - Applies
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

3.07 RETIREMENT

The Town shall provide Employees the retirement benefits provided for in accordance with the New York State Retirement System, as provided by law.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 9, 10 - Applies, except Police Chief and Assistant Police Chief will follow Article XIV of the Command Officers Association Agreement
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

3.08 HEALTH INSURANCE

Doctor and Hospitalization Insurance (Employment)

In reference to Health and Dental insurance only: As of June 27, 2012, each Fulltime Elected, Fulltime Re-Elected, Fulltime Appointed, and Fulltime Nonunion employee of the Town of Orchard Park, will be aligned with a current union bargaining agreement Health and Dental policy, commensurate to the type of work each employee does in their respective department.

Category of Employee	Actual Agreement Alignment	Health Insurance Contribution	Dental Insurance Contribution
Fulltime Employees: (Group 5)	CSEA - Blue Collar	CSEA - CS	CSEA - CS
Fulltime Employees: (Group 6)	CSEA - White Collar	CSEA - WC	CSEA - WC
Fulltime Employees: (Group 3 and 4) Administration / Clerical <i>ONLY</i>	Nonunion	CSEA - WC	CSEA - WC
Fulltime Employees: (Group 4) Highway/Sewer & Lighting, and Compost <i>ONLY</i>	Nonunion	CSEA - CS	CSEA - CS
Fulltime Appointed Positions: (Group 3)	Nonunion	CSEA - WC	CSEA - WC
Fulltime Newly Elected: (Group 1) effective 06/27/2012	Elected	CSEA - WC	CSEA - WC
Fulltime Re-Elected: (Group 1)	Elected	CSEA - WC	CSEA - WC
Fulltime Police Officers and Detectives: (Group 7)	Police Benevolent Association	PBA	PBA
Fulltime Police Command Officers: (Group 8)	Command Officers Agreement	COA	COA
Fulltime Police Chief and Assistant Police Chief: (Group 3)	Nonunion	COA	COA
Part-time: (All Groups)	Nonunion	N/A	N/A

Waiver of Insurance:

Any Employee or elected official that is eligible for a Town contribution toward the cost of his/her health insurance premiums as identified in the table on page 27, may waive health insurance benefits and receive a per month payment for each month waived as stipulated in each of the corresponding bargaining agreement alignments. Any Employee that is not eligible for a Town contribution toward the cost of his/her health insurance premium as identified in the Table on page 27 is not entitled to receive a payment for waiving health insurance benefits.

A waiver may be cancelled at the annual open enrollment period or at other times only for reasons approved by the health insurance company such as loss of spousal benefits or coverage under another plan for reasons beyond their control.

Flex Benefit Plan:

Two types of flex plans will be offered:

1. Applies only to those fulltime elected officials, Department Heads, or Employees who enroll in the health insurance plan, qualify for \$100.00 per month HRA Plan. New hires \$50.00 after June 27, 2012. HRA which rolls over from year to year may be used for medical related expenses only (vision, dental, co-pays, deductibles, health insurance).
2. FSA which does not roll over and may be used for same medical as an HRA, but may also be used for other purposes (extra life insurance, disability insurance, Roth IRA).

Reimbursements from both types of flex accounts are regulated by law as to what is eligible and what is not. Some FSA uses are taxable.

Employees will have an annual open enrollment period to change from one type of flex plan to another. After retirement, eligible Employees are able to draw down from their HRA account: NOTE: Administrative cost will be deducted from any remaining balance until the Employee's account balance is depleted.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4 - Applies, except Police Chief and Assistant Police Chief will follow Article XII of the Command Officers Association Agreement (excludes Councilmen and newly elected or re-elected Town Justices)
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement
- Group 9, 10 - None

Employee, Doctor and Hospital Insurance (Retirement)

Employees hired prior to June 27, 2012:

The Town shall provide health insurance to fulltime Employees who reach the present legal retirement age of 55 (Tier 1) and 62 (Tier 2); who retire under the New York State Retirement System, and who have served with the Town of Orchard Park as fulltime Employees for twenty (20) continuous complete years or more. The Town reserves the absolute right to modify, amend or terminate these benefits or eligibility for these benefits at any time and for any reason. It is understood that the age of 62 shall apply to any present or future Ties for said benefit, and shall be unaffected by any subsequent legislative changes in the legal retirement age; that the medical benefit to be provided (i.e. type, family, single, etc.) shall be similar to the benefit provided by the

Town to active employees (not including dental). The Town may alter or change the coverage after someone retires; and such coverage shall terminate upon the death of the Employee or upon reaching age Medicare eligibility. In the event of the death of a retired Town Employee with twenty (20) years of Town of Orchard Park service and receiving coverage under this policy, such health insurance coverage will be extended to the Employees spouse using the value of the Employees accumulated sick leave. Such coverage shall continue until the value of the accumulated sick leave is used, the spouse remarries or dies, whichever is sooner.

The Employee's remaining unused sick leave days, computed at his/her daily rate of pay at the time of his/her retirement, shall be used to pay the monthly premium rates.

Employees hired on or after June 27, 2012:

For fulltime Employees who retire directly from the Town service into the New York State Retirement System who reach the legal retirement age of 55 (Tier 1) and 62 (Tiers 2, 3, 4, and any subsequent tiers), with at least twenty (25) years of service with the Town of Orchard Park as a fulltime employee or work related disability pension, (not a resignation or discharge), shall be eligible to receive a health insurance plan as stipulated in the employee's corresponding collective bargaining agreement (chart on page 27), until such time that the retiree reaches the age of Medicare eligibility. The Town reserves the absolute right to modify, amend or terminate these benefits or eligibility for these benefits at any time and for any reason.

The Employee's remaining unused sick leave days, computed at his/her daily rate of pay at the time of his/her retirement shall be used to pay the monthly premium rates.

Age of Medicare Eligibility

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

Such retired Employees shall be permitted to convert accumulated sick leave to wages on the basis of one (1) hour accumulated sick leave to one (1) hour wages, at the employee's regular hourly rate on the date of retirement, which wages shall be utilized exclusively to the payment of continued medical coverage. In the event of the death of a retired Employee who is receiving a medical insurance benefit, such accumulated sick leave wages shall be utilized exclusively to the payment of continued medical coverage for the surviving spouse of the deceased retired Employee.

Employees who retire and who are Medicare eligible will have the option to enroll and pay for Medicare Part B. Employees may reimburse themselves the expense of Medicare Part B in quarterly or annual payments with proof for each calendar year from their accumulated sick leave as set forth above, for the exclusive use of medical coverage.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 9, 10 - None

- Group 3, 4 - Applies, except Police Chief and Assistant Police Chief will follow Article XII of the Command Officers Association Agreement
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

**Elected and Appointed Positions
Doctor and Hospital Insurance (Retirement)**

Effective June 27, 2012, the eligibility of Town Officials (individuals in Elected or Appointed positions) for retirement upon retirement as well as the amount of any retiree contribution toward the cost of health insurance is set forth in the three (3) following tables.

In order to be eligible to receive any contribution toward the cost of health insurance premiums during retirement, the individual **MUST** have reached the age of **55** (Tier 1) and **62** (Tiers 2, 3, 4, and any subsequent tiers (NYS Retirement) as of the date of that employee’s separation from employment with the Town. Any individual that separates from employment with the Town prior to reaching the age of 55 (Tier 1) and 62 (Tiers 2, 3, 4, and any subsequent tiers (NYS Retirement) is **NOT** eligible to receive any Town contribution toward the cost of health insurance benefits.

For individuals that have attained the legal retirement age as of separation from Town employment, eligibility for any Town contribution toward retiree health insurance premiums is dependent upon:

- the position;
- the first date of service in that position; and
- length of service with the Town

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

PART-TIME ELECTED POSITIONS				
Category	First Date of Service with the Town	Completed Years of Service	Retiree’s Health Insurance Contribution	Retiree’s Dental Insurance Contribution
Part-time Elected	ANY	Any	100%	100%
Part-time Appointed	ANY	Any	100%	100%

FULLTIME ELECTED POSITIONS WITH FIRST DATE OF SERVICE STARTING BEFORE JUNE 27, 2012			
Category	Completed Years of Service	Retiree's Health Insurance Contribution	Retiree's Dental Insurance Contribution
Fulltime Elected: (Supervisor, Town Clerk, Highway Superintendent)	14 years or more	CSEA - WC	CSEA - WC

FULLTIME ELECTED POSITIONS WITH FIRST DATE OF SERVICE STARTING AFTER JUNE 26, 2012			
Category	Completed Years of Service	Retiree's Health Insurance Contribution	Retiree's Dental Insurance Contribution
Fulltime Elected: (Supervisor, Town Clerk, Highway Superintendent)	20 years or more	CSEA - WC	CSEA - WC

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

It is understood that medical benefit to be provided (i.e. type, family, single, etc.) shall be similar to the benefit provided by the Town to active employees (not including dental). The Town may alter or change the coverage after someone retires

Fulltime Elected Official upon qualifying for retirement health benefits paid for by the Town as stipulated in above chart, and reaching NYS Retirement legal retirement age, shall be eligible to enroll in the single or family Dental Plan as offered by the Town. The retired elected official shall pay the Dental Plan rate in effect or the COBRA rate for the Dental Plan as determined by the plan provider.

Age of Medicare Eligibility

Once an eligible Town Officials (individuals in Elected or Appointed positions) reaches the age of Medicare eligibility or otherwise becomes eligible for Medicare, **REGARDLESS OF THE OFFICIALS'S FIRST DATE OF SERVICE WITH THE TOWN**, the retiree and the retiree's spouse must enroll in Medicare parts A and B at their own expense.

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

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 3, 4, 9, 10 - None
- Group 1, 2 - Applies
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

3.09 DENTAL INSURANCE

The Town shall provide a Town funded Dental Plan to eligible Employees. The table on page 27 sets forth eligibility and amount of premium contribution based upon an individual's category and first date of service for the Town.

Coverage under the CSEA Employee Benefit Fund Horizon Dental Plan or, if such plan is eliminated, an equivalent plan. In the event that the insurer unilaterally changes the coverage, the Town is not responsible for maintaining the removed or altered coverage. Notwithstanding the foregoing, the Town shall not request any changes in coverage. The Town reserves the right to change dental insurance plans and/or companies but not before consultation and discussion with the Union at least 90 days before such change, and provided the new plan is equivalent or better in coverage, which determination shall be made with consideration given to any commitment by the Town to self-insure certain benefits. If the Union disagrees that the plan is equivalent or better, the issue is subject to the grievance and arbitration procedure.

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

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 9, 10 - None

- Group 1, 2, 3, 4 - Applies, except Police Chief and Assistant Police Chief will follow Article XII of the Command Officers Association Agreement

- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

3.10 LIFE INSURANCE

The Town shall provide Life Insurance of \$20,000.00

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 9, 10 - None

- Group 1, 2, 3, 4 - Applies, except Police Chief and Assistant Police Chief will follow Article XIII of the Command Officers Association Agreement

- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

ARTICLE IV – LEAVES OF ABSENCE

4.01 Leaves of Absence Generally

Employees may request in writing a leave of absence without pay, not to exceed one (1) year. The determination of whether a request for leave without pay shall be granted rests solely on the discretion of the Town. The Town shall render determinations for requested leaves of absence without pay within ten (10) working days from receipt of request.

Employees shall not earn or accrue seniority and/or any other benefits during a period of leave of absence without pay. Upon return to work upon completion of leave of absence without pay, such Employee shall have seniority rights enjoyed at the time such leave commenced.

An employee shall notify the Town at least two (2) weeks prior to his scheduled return to work to confirm the date that he will report to work. The failure of an Employee to return to work within five (5) working days after the expiration of the leave shall be considered as a voluntary resignation.

A leave of absence without pay may be extended only by the authorization of the Town Board. Requesting a leave of absence under false pretenses shall be subject to disciplinary action.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 9, 10 - None
- Group 3, 4 - Applies
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

4.02 Sick Leave

Employees **hired prior to June 27, 2012** shall earn sick leave at the rate of one and one-half (1 ½) days per full month of completed service. Employees hired on **or after June 27, 2012** shall earn sick leave at the rate of one (1) day per full month of completed service. Newly hired Employees shall not be permitted to utilize such sick leave benefits during the Employee's probationary period.

In order to qualify for sick leave benefits in any given month an Employee shall have been on full pay status, except paid sick leave, for the Town of Orchard Park for at least fifty (50) percent of the working days in such month.

Sick leave may be accumulated up to two hundred forty (240) days maximum. Employees may use the 220th – 240th day for health insurance upon retirement only. Sick leave shall not accrue or accumulate during any unpaid leave period. Sick leave may not be used in intervals of less than one-half (1/2) day. Sick leave shall not be used for any purpose other than legitimate illness. Employees shall contact the office of the Department Head by telephone at the commencement of their work day when reporting sick or earlier if possible, and notify the Department Head of the anticipated return date.

Employees shall provide a written physician's statement after three (3) consecutive work days of illness, and may be required to furnish a physician's statement for periods of illness less than three (3) consecutive work days and for sick leave days utilized immediately prior to or subsequent to holidays, vacation, or any unpaid time off.

Upon the termination of employment in any regard, all accumulated sick leave shall be cancelled, except to the extent provided by law or in this manual. An employee who is subsequently rehired within one (1) year shall be credited with the amount of sick leave accrued at the time of termination.

In the event an Employee has exhausted their accumulated sick leave, and the Department Head recommends an extension of paid sick leave, the Town Board may extend additional paid sick time to the Employee. The extended time shall be re-paid to the Town as sick days are earned, when the Employee returns to work. In the event the Employee does not return to their employment, repayment of the extended time owed to the Town would be at the discretion of the Town Board.

Immediate Family:

Employees who have completed their probationary period may utilize five (5) days per year of accumulated sick leave for illness in the immediate family (spouse, child, parent, sibling, mother-in-law, father-in-law, a grandparent, or a relative who actually resides in the immediate household), where the presence of such Employee is necessary and required to provide care for such member of the immediate family.

It is understood that such leave must be requested in advance when possible, and this request must be approved by the Department Head or his/her designated representative. This approval may be denied when, in the exclusive judgment of the Department Head or his/her designated

representative; the granting of such leave will adversely affect the operation of the Department. The Department Head or his/her designated representative may require an Employee to verify or substantiate such request by doctor's note or otherwise.

It is also understood that such leave shall be taken in units of not less than four (4) hours duration unless otherwise authorized by the Department Head or his designated representative.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 9, 10 - None

- Group 3, 4 - Applies, except Police Chief and Assistant Police Chief
will follow Article XV of the Command Officers Association Agreement

- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

4.03 Personal Leave

1. Employees hired prior to June 27, 2012 shall be permitted three (3) days per calendar year to conduct personal business.
2. Employees hired on or after June 27, 2012 shall be permitted up to three (3) days per year to conduct personal business, except during the calendar year of their starting employment, the employee shall only be permitted one (1) personal leave day, provided that the Employee's employment probationary period has been completed, and during the second calendar year of their employment, the Employee shall only be permitted two (2) personal leave days.

The following circumstances will be followed:

- a) Requests for personal leave must be submitted in writing to their Department Head as soon as possible, but at least two (2) work days, if possible, prior to use, stating the general reason for the request.
- b) Requests for personal leave must be approved by the Department Head.

An Employee will not use personal leave in increments of less than one (1) hour. If one-half (1/2) day personal leave is taken, the employee must be at work for four (4) hours that day.

It is further understood that personal leave shall be used for legitimate business which cannot be conducted after normal working hours. Such leave may be utilized for such legitimate business as provided for in this section just prior or subsequent to a holiday or vacation period, with the understanding that such leave shall not be used to extend a holiday or vacation period and the reason is documented and approved by their Department Head.

Unused personal leave at the end of each calendar year may be applied to accumulated sick leave to provide an extension of earned and accumulated sick leave days from 240 to a maximum of 270, up to thirty (30) additional days. The accumulated personal leave days shall not be used as sick leave days unless due to extended illness or illnesses, an Employee has exhausted his/her accumulated sick leave. He may then use the accumulated personal leave as provided in the Policy Statement. Upon retirement this maximum of 270 days may also be applied to the Employee's health program benefits.

An Employee shall be entitled to one (1) Personal Leave Day during the calendar year of their hire providing their employment probationary period has been completed.

Subsequent calendar years the Employee will be entitled to Personal Leave Days as set forth above.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 9, 10 - None

- **Group 3, 4** - Applies, except Police Chief and Assistant Police Chief will follow Article XVI of the Command Officers Association Agreement
- **Group 5, 6, 7, 8** - Refer to Collective Bargaining Agreement

4.04 Bereavement Leave

In the event that an Employee is bereaved by the death of a spouse, child, parent, sibling, mother-in-law, father-in-law, grandparent or relative who actually resides within the immediate household, such Employee may absent himself/herself from work with pay for a period of three (3) consecutive work days, provided:

- a) The Employee attends the funeral or memorial service.
- b) The day of death or day of funeral or the memorial service must encompass one of the three (3) days referred to above.
- c) Bereavement leave shall not apply during periods when the Employee involved is absent from work because of sickness, injury, leave of absence, or any other leave except vacation.

In the event an Employee's brother-in-law or sister-in-law dies, the Employee will be entitled to the day of the funeral or memorial service.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 9, 10 - None
- Group 3, 4 - Applies, except Police Chief and Assistant Police Chief will follow Article XVII of the Command Officers Association Agreement
- Group 5, 6, 7, 8 - Refer to Collective Bargaining Agreement

4.05 Military

The Town will comply with all applicable sections of the New York Military Law with respect to paid leave for military service.

The Town will also comply with the requirements of the Uniform Services Employment and Reemployment Rights Act.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies where required by law.

4.06 Family and Medical Leave

The Leave Policy

Employees may be entitled to a leave of absence under the Family and Medical Leave Act (FMLA). This policy provides Employees information concerning FMLA entitlements and obligations Employees may have during such leaves. If Employees have any questions concerning FMLA leave, they should contact the Payroll Office.

I. Eligibility

FMLA leave is available to “eligible Employees.” To be an Employee must: 1) have been employed by the Town for at least 12 months; 2) have been employed by the Town for at least 1250 hours of service during the 12-month period immediately preceding the commencement of the leave; and 3) be employed at a worksite where 50 or more Employees are located within 75 miles of the worksite.

II. Entitlements

The FMLA provides eligible Employees with a right to leave, health insurance benefits and, with some limited exceptions, job restoration. The FMLA also entitles Employees to certain written notices concerning their potential eligibility for designation of FMLA leave.

A. Basic FMLA Leave Entitlement:

The FMLA provides eligible Employees up to 12 workweeks of unpaid leave for certain family and medical reasons during a 12-month period. The 12-month period is determined based on a rolling 12-month period measured backward from the date an Employee uses his/her FMLA leave. Leave may be taken for any one, or for a combination, of the following reasons:

- To care for the Employee’s child after birth or placement for adoption or foster care;
- To care for the Employee’s spouse, son, daughter or parent (but not in-law) who has a serious health condition;
- For the Employee’s own serious health condition (including any period of incapacity due to pregnancy, prenatal medical care or childbirth) that makes the Employee unable to perform one or more of the essential functions of the Employee’s job; and/or
- Because of any qualifying exigency arising out of the fact that an Employee’s spouse, son, daughter or parent is a covered military member on active duty or has been notified of an impending call or order to active duty status in the National Guard or Reserves in support of contingency operation.

A serious health condition is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the Employee from performing the functions of the Employee’s job, or prevents the qualified family member from participating in school or other daily

activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions and attending post-deployment reintegration briefings.

B. Additional Military Family Leave Entitlement (Injured Service member Leave)

In addition to the basic FMLA leave entitlement discussed above, an eligible Employee who is the spouse, son, daughter, parent or next of kin of a covered service member is entitled to take up to 26 weeks of leave during a single 12-month period to care for the service member with a serious injury or illness. Leave to care for a service member shall only be available during a single 12-month period and, when combined with other FMLA-qualifying leave, may not exceed 26 weeks during the single 12-month period. The single 12-month period begins on the first day an eligible Employee takes leave to care for the injured service member.

A "covered service member" means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status or is on the temporary retired list, for a serious injury or illness. A member of the Armed Forces would have a serious injury or illness if he/she has incurred an injury or illness in the line of duty while on active duty in the Armed Forces provided that the injury or illness may render the service member medically unfit to perform duties of the member's office, grade, rank or rating.

C. Intermittent Leave and Reduced Leave Schedules

FMLA leave usually will be taken for a period of consecutive days, weeks or months. However, Employees also are entitled to take FMLA leave intermittently or on a reduced leave schedule when medically necessary due to a serious health condition of the Employee or covered family member or the serious injury or illness of a covered service member.

D. No Work While on Leave

The taking of another job while on family / medical leave or any other authorized leave of absence is grounds for immediate termination, to the extent permitted by law.

E. Protection of Group Health Insurance Benefits

During FMLA leave, eligible Employees are entitled to receive group health plan coverage on the same terms and conditions as if they had continued to work.

F. Restoration of Employment and Benefits

At the end of FMLA leave, subject to some exceptions including situations where job restoration of “key Employees” will cause the Town substantial and grievous economic injury, Employees generally have a right to return to the same or equivalent positions with equivalent pay, benefits and other employment terms. The Town will notify Employees if they qualify as “key Employees,” if it intends to deny reinstatement, and of their rights in such instances. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an eligible Employee’s FMLA leave.

G. Notice of Eligibility for, and Designation of, FMLA Leave

Employees requesting FMLA leave are entitled to receive written notice from the Town telling them whether they are eligible for FMLA leave and, if not eligible, the reasons why they are not eligible. When eligible for FMLA leave, Employees are entitled to receive written notice of: 1) their rights and responsibilities in connection with such leave; 2) the Town’s designation of leave as FMLA-qualifying or non-qualifying, and if not FMLA-qualifying, the reasons why; and 3) the amount of leave, if known, that will be counted against the Employee’s leave entitlement.

The Town may retroactively designate leave as FMLA leave with appropriate written notice to Employees provided to Town’s failure to designate leave as FMLA-qualifying at an earlier date did not cause harm or injury to the Employee. In all cases where leaves qualify for FMLA protection, the Town and Employee can mutually agree that leave be retroactively designated as FMLA leave.

III. Employee FMLA Leave Obligations

A. Provide Notice of the Need for Leave

Employees who take FMLA leave must timely notify the Town of their need for FMLA leave. The following describes the content and timing of such Employee notices.

1. Content of Employee Notice

To trigger FMLA leave protections, Employees must inform the Payroll Department of the need for FMLA-qualifying leave and the anticipated timing and duration of the leave, if known. Employees may do this by either requesting FMLA leave specifically, or explaining the reasons for leave so as to allow the Town to determine that the leave is FMLA-qualifying. For example, Employees might explain that:

- A medical condition renders them unable to perform the functions of their job;
- They are pregnant or have been hospitalized overnight;
- They or a covered family member are under the continuing care of a health care provider;
- The leave is due to a qualifying exigency cause by a covered military member being on active duty or called to active duty status; or
- If the leave is for a family member, that the condition renders the family member unable to perform daily activities or that the family member is a covered service member with a serious injury or illness.

Calling in "sick" without providing the reasons for the needed leave, will not be considered sufficient notice for FMLA leave under this policy. Employees must respond to the Town's questions to determine if absences are potentially FMLA-qualifying.

If Employees fail to explain the reasons for FMLA leave, the leave may be denied. When Employees seek leave due to FMLA-qualifying reasons for which the Town has previously provided FMLA-protected leave, they must specifically reference the qualifying reason for the leave of the need for FMLA leave.

2. Timing of Employee Notice

Employees must provide 30 days' advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, or the approximate timing of the need for leave is not foreseeable, Employees must provide the Town notice of the need for leave as soon as practicable under the facts and circumstances of the particular case. Employees, who fail to give 30 days' notice for foreseeable leave without a reasonable excuse for the delay, or otherwise fail to satisfy FMLA notice obligations, may have FMLA leave delayed or denied.

B. Cooperate in the Scheduling of Planned Medical Treatment (Including Accepting Transfers to Alternative Positions) and Intermittent Leave or Reduced Leave Schedules

When planning medical treatment, Employees must consult with the Town and make a reasonable effort to schedule treatment so as not to unduly disrupt the Town's operations, subject to the approval of an Employee's health care provider. Employees must consult with the Town prior to the scheduling of treatment to work out a treatment schedule that best suits the needs of both the Town and the Employees, subject to the approval of an Employee's health care provider. If Employees providing notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglect to fulfill this obligation, the Town may require Employees to attempt to make such arrangements, subject to the approval of the Employee's health care provider.

When Employees take intermittent or reduced work schedule leave for foreseeable planned medical treatment for the Employee or a family member, including during a period of recovery from a serious health condition or to care for a covered service member, the Town may temporarily transfer Employees, during the period that the intermittent or reduced leave schedules are required, to alternative positions with equivalent pay and benefits for which the Employees are qualified and which better accommodate recurring periods of leave.

When Employees seek intermittent leave or a reduced leave schedule for reasons unrelated to the planning of medical treatment, upon request, Employees must advise the Town of the reason why such leave is medically necessary. In such instances, the Town and Employee shall attempt to work out a leave schedule that meets the Employee's needs without unduly disrupting the Town's operations, subject to the approval of the Employee's health care provider.

C. Submit Medical Certifications Supporting Need for FMLA Leave (Unrelated to Requests for Military Family Leave)

Depending on the nature of FMLA leave sought, Employees may be required to submit medical certifications supporting their need for FMLA-qualifying leave. As described below, there generally are three types of FMLA medical certifications: an initial certification, a recertification, and a return to work/fitness for duty certification.

It is the Employee's responsibility to provide the Town with timely, complete and sufficient medical certifications. Whenever the Town requests Employees to provide FMLA medical certifications, Employees must provide the requested certifications within 15 calendar days after the Town's request, unless it is not practicable to do so despite an Employee's diligent, good faith efforts. The Town shall inform Employees if submitted medical certifications are incomplete or insufficient and provide Employees at least seven (7) calendar days to cure deficiencies. The Town will deny FMLA leave to Employees who fail to timely cure deficiencies or otherwise fail to timely submit requested medical certifications.

With the Employee's permission, the Town (through individuals other than an Employee's direct supervisor) may contact the Employee's health care provider to authenticate or clarify completed and sufficient medical certifications. If Employees choose not to provide the Town with authorization allowing it to clarify or authenticate certifications with health care providers, the Town may deny FMLA leave if certifications are unclear.

Whenever the Town deems it appropriate to do so, it may waive its right to receive timely, complete and/or sufficient FMLA medical certifications.

1. Initial Medical Certifications

Employees requesting leave because of their own, or a covered relation's, serious health condition, or to care for a covered service member, must supply medical certification supporting the need for such leave from their health care provider or, if applicable, the health care provider of their covered family or service member. If Employees provide at least 30 days' notice of medical leave, they should submit the medical certification before leave begins. A new initial medical certification will be required on an annual basis for serious medical conditions lasting beyond a single leave year.

If the Town has reason to doubt initial medical certifications, it may require Employees to obtain a second opinion at the Town's expense. If the opinions of the initial and second health care providers differ, the Town may, at its expense, require Employees to obtain a third, final and binding certification from a health care provider designated or approved jointly by the town and the Employee.

2. Medical Re-certifications

Depending on the circumstance and duration of FMLA leave, the Town may require Employees to provide recertification of medical conditions giving rise to the need for leave. The Town will notify Employees if recertification is required and will give Employees at least fifteen (15) calendar days to provide medical recertification.

3. Return to Work/Fitness for Duty Medical Certifications

Unless notified that providing such certifications is not necessary, Employees returning to work from FMLA leaves that were taken because of their own serious health conditions that made them unable to perform their jobs must provide the Town medical certification confirming they are able to return to work and the Employee's ability to perform the essential functions of the Employee's position, with or without reasonable accommodation. The Town may delay and/or deny job restoration until Employees provide return to work/fitness for duty certifications.

D. Submit Certifications Supporting Need for Military Family Leave

Upon request, the first time Employees seek leave due to qualifying exigencies arising out of the active duty or call to active duty status of a covered military member, the Town may require Employees to provide: 1) a copy of the covered military member's active duty orders or other documentation issued by the military indicating the covered military member is on active duty service; and 2) a certification from the Employee setting forth information concerning the nature of the qualifying exigency for which leave is requested. Employees shall provide a copy of new active duty orders or other documentation issued by the military for leaves arising out of qualifying exigencies arising out of a different active duty or call to active duty status of the same or a different covered military member.

When leave is taken to care for a covered service member with a serious injury or illness, the Town may require Employees to obtain certifications completed by an authorized health care provider of the covered service member. In addition, and in accordance with the FMLA regulations, the Town may request that the certification submitted by Employees set forth additional information provided by the Employee and/or the covered service member concerning entitlement to such leave.

E. Substitute Paid Leave for Unpaid FMLA Leave

Employees must use any accrued paid time while taking unpaid FMLA leave.

The substitution of paid time for unpaid FMLA leave time does not extend the length of FMLA leave and the paid time will run concurrently with an Employee's FMLA entitlement.

Leaves of absence taken in connection with a disability leave plan or workers' compensation injury/illness shall run concurrently with any FMLA leave entitlement.

Upon written request, the Town will allow Employees to use accrued paid time to supplement any paid disability benefits.

F. Pay Employee's Share of Health Insurance Premiums

During FMLA leave, Employees are entitled to continued group health plan coverage under the same conditions as if they had continued to work. Unless the Town notifies Employees of other arrangements, whenever Employees are receiving pay from the Town during FMLA leave, the Town will deduct the Employee portion of the group health plan premium for the Employee's paycheck in the same manner as if the Employee was actively working.

If FMLA leave is unpaid, Employees must pay their portion of the group health premium through a method determined by the Town upon leave.

The Town's obligation to maintain health care coverage ceases if an Employee's premium payment is more than thirty (30) days late. If an Employee's payment is more than fifteen (15) days late, the Town will send a letter notifying the Employee that coverage will be dropped on a specified date unless the co-payment is received before that date. If Employees do not return to work within thirty (30) calendar days at the end of the leave period (unless Employees cannot return to work because of a serious health condition or other circumstances beyond their control), they will be required to reimburse the Town for the cost of the premiums the Town paid for maintaining coverage during their unpaid FMLA leave.

G. Report Periodically Concerning Intent to Return to Work

Employees must contact the Town periodically (every two weeks) regarding their status and intention to return to work at the end of the FMLA and/or NJFLA leave period. If an Employee's anticipated return to work date changes and it becomes necessary for the Employee to take more or less leave than originally anticipated, the Employee must provide the town with reasonable notice (i.e., within 2 business days) of the Employee's changed circumstances and new return to work date. If Employees give the Town unequivocal notice of their intent not to return to work, the Town's obligation to maintain health benefits (subject to COBRA requirements) and to restore their positions cease.

IV. Exemption for Highly Compensated Employees

The Town may choose not to return highly compensated Employees (highest paid 10% of Employees at a worksite or within 75 miles of that worksite) to their former or equivalent positions following a leave if restoration of employment will cause substantial economic injury to the Organization. (This fact-specific determination will be made by the Town on a case-by-case basis). The Town will notify you if you qualify as a "highly compensated" Employee, if the Town intends to deny reinstatement, and of your right in such instances.

V. Questions and/or Complaints about FMLA Leave

If you have questions regarding this FMLA policy, please contact your supervisor or his designated representative. The Town is committed to complying with the FMLA and, whenever necessary, shall interpret and apply this policy in a manner consistent with the FMLA.

The FMLA makes it unlawful for employers to: 1) interfere with, restrain or deny the exercise of any right provided under FMLA; or 2) discharge or discriminate against any person for opposing any practice made unlawful by FMLA or involvement in any proceeding under or relating to FMLA. If Employees believe their FMLA rights have been violated, they should contact the Payroll Department immediately. The Town will investigate any FMLA complaints and take prompt and appropriate remedial action to address and/or remedy any FMLA violation. Employees also may file FMLA complaints with the United States Department of Labor or may bring private lawsuits alleging FMLA violations.

VI. Coordination of FMLA Leave with Other Leave Policies

The FMLA does not affect any federal, state or local law prohibiting discrimination, or supersede any State or local law, which provides greater family or medical leave rights. For additional information concerning leave entitlements and obligations that might arise when FMLA leave is either not available or exhausted, please consult the Town's other leave policies in this Policy Manual or contact the Payroll Department.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies where required by law

ARTICLE V – GENERAL STANDARDS OF CONDUCT

5.01 Workplace Conduct

The Town endeavors to maintain a positive work environment. Each Employee plays a role in fostering this environment. Accordingly, we all must abide by certain rules of conduct, based on honesty, common sense and fair play.

Because everyone may not have the same idea about proper workplace conduct, it is helpful to adopt and enforce rules all can follow. Unacceptable conduct may subject the offender to disciplinary action, up to and including discharge will be at the discretion of the entire Town Board. When required, the Town shall follow disciplinary proceedings as stipulated in the New York State Civil Service Law Section 75. The following are examples of some, but not all, conduct which can be considered unacceptable:

- Violation of any Town Policy or Rule, including, but not limited to, every policy included in this Policy Manual.
- Any violation of the Town of Orchard Park Information Technology Use & Security Guidelines
- Obtaining employment on the basis of false or misleading information.
- Stealing, removing or defacing Town property or a co-worker's property, and/or disclosure of confidential information.
- Completing another Employee's time records.
- Dishonesty, falsification, and/or lying.
- Violation of safety rules and policies.
- Fighting, threatening or disrupting the work of others or other violations of the Town's Workplace Violence Policy.
- Insubordination or disobedience of a lawful management directive.
- Use of foul or inappropriate language.
- Loitering or loafing during work time, or leaving a work area without the permission of management.
- Gambling on Town property or utilizing Town systems.
- Stopping work prior to the end of any shift without management's permission.
- Willful or careless destruction or damage to Town assets or to the equipment or possessions of another Employee.
- Wasting work materials.
- Unnecessarily conducting personal activity, including use of the Town phone system, computer system, e-mail system, and/or Internet access during working hours.
- Performing work for an organization other than the Town during working hours.
- Performing work of a personal nature during working time.
- Unsatisfactory job performance.

Obviously, not every type of misconduct can be listed. Note: The Town reserves the right to impose whatever discipline it chooses, or none at all, in a particular instance, and when required, follow disciplinary proceedings as stipulated in the New York State Civil Service Law Section 75, for those employees that it applies. The Town will deal with each situation individually and nothing in this Policy Manual should be construed as a promise of specific treatment in a given situation.

The observance of these rules will help to ensure that our workplace remains a safe and desirable place to work.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.02 Punctuality and Attendance

You were hired to perform an important function at the Town. As with any group effort, operating effectively takes cooperation and commitment from everyone. Therefore, your attendance and punctuality are very important. Unnecessary absences and lateness are expensive, disruptive and place an unfair burden on your fellow Employees and your Supervisor. We expect excellent attendance from each of you. Excessive absenteeism or tardiness will result in disciplinary action up to and including discharge. When required by law, the Town shall follow disciplinary proceedings as stipulated in the New York State Civil Service Law Section 75.

We do recognize, however, that there are times when absences and tardiness cannot be avoided. In such cases, you are expected to notify your supervisor as early as possible, but no later than the start of your work day. Asking another Employee, friend or relative to give this notice is improper and constitutes grounds for disciplinary action. Please call, stating the nature of your illness within HIPPA rules, and its expected duration, every day that you are absent.

An unreported absence generally will be considered a voluntary resignation of your employment with the Town.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.03 Information Technology Use & Security Guidelines

TOWN OF ORCHARD PARK

Information Technology Use and Security Policy

R. Paul Warriner, Network Coordinator
12/20/2011

The following document is an updated technology policy to address the advances in technology since the last revision in 2001 of the Town of Orchard Park Internet Use Policy.

1.0 PURPOSE

1.1 The purpose of the Information Technology Use and Security Policy is to help protect Town of Orchard Park Government, its employees, and any authorized user of Town of Orchard Park's Information Technology from liabilities and service interruptions due to inappropriate use of Town of Orchard Park's desktop/laptop computers/terminals and/or information technology services and breaches of information technology security.

1.2 Information technology means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement control, display, switching, interchange, transmission, or reception of data or information. Information technology systems/tools are to be defined as all hardware, software, and any automation services or tools owned or licensed to Town of Orchard Park Government and available for "official use" by Town of Orchard Park employees and all authorized personnel including, but not limited to, desktop/laptop computers/terminals and related peripheral equipment and software, voice mail, Internet connectivity and access to Internet services, and E-mail.

2.0 POLICY

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

Should a user identify an issue or situation that they are not certain how to deal with, they should inquire of management. The Information Technology Use and Security Policy is subordinate to any employment contract or other employment agreements. Town of Orchard Park Government may add to, or change, the policies at any time. Annual Awareness Training will be conducted and must be attended by all users of Town of Orchard Park's Information Technology. Please read the policy carefully and sign the "Information Technology Use/Access Release" form attached. The signed form should be given to your supervisor, signed by the Department Head, and then forwarded to Information Technology.

3.0 REGULATION AND USAGE

3.1 GENERAL GUIDELINES

A. USE FOR AUTHORIZED PURPOSES ONLY

The use of all Town of Orchard Park Information Technology systems/tools is restricted to authorized purposes only. Under no circumstances shall Town of Orchard Park Information Technology systems/tools be used for any commercial purpose, or to publish, disseminate or communicate any material of a political, religious, obscene or derogatory nature.

Town of Orchard Park Information Technology systems/tools may not be used for the following:

- Violation of any public laws;
- Using profane or obscene language or graphics;
- Copying commercial software in violation of copyright law;
- Using the network resources for personal financial gain or any commercial or illegal activity; or
- Permitting any users/persons access to tools, network systems and applications who have not been authorized or established as a valid user by Town of Orchard Park Government and Information Technology (IT).

Use of Town of Orchard Park Information Technology systems/tools for any of the above may be grounds for dismissal, disciplinary measures for future use of equipment and any or all of the above or other personnel measures as may be described in the Town of Orchard Park Personnel Policy and Procedure Manual.

B. PERSONAL USE

Town of Orchard Park employees are only permitted to use Town of Orchard Park Information Technology systems/tools for personal needs if, in the determination of the Town, the use does not interfere with official business and involves no additional expense to Town of Orchard Park. No additional expense means that employee's personal use of town equipment is limited to those situations where the town is already providing equipment or services and the employee's use of such equipment or services will not result in any additional expense to the town. Any personal use of Town of Orchard Park's Information Technology systems/tools must take place during the employee's *non-work* time. The personal use of Town of Orchard Park Information Technology systems/tools during work time is prohibited, and violations of this rule will be punished up to, and including, discharge.

This privilege to use Town of Orchard Park's Information Technology systems/tools for non-town business may be revoked or limited at any time by this policy or departmental management. Privilege means, in the context of this policy, that Town of Orchard Park Government is extending the opportunity to its employees to use town equipment for personal use in an effort to create a more supportive work environment. However, this policy does not create a right to use town

equipment for non-town business. Nor does the privilege extend to modifying such equipment, including loading personal software or making hardware configuration changes.

C. INAPPROPRIATE USES

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

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

D. PROTECT YOUR COMPUTER EQUIPMENT

All authorized users share in the responsibility to protect Town of Orchard Park's desktop/laptop computer/terminal resources from physical and environmental damage/loss. Users are responsible for the correct operation and physical security of Town of Orchard Park's Desktop/Laptop computers or terminals. Destruction, theft, alteration, or any other form of sabotage of Town of Orchard Park's Information Technology systems/tools is prohibited and will be investigated and prosecuted to the fullest extent of the law.

E. USE ONLY APPROVED SOFTWARE

Software installed on and/or used by Town of Orchard Park's desktop/laptop computers must be approved and installed by IT. IT will maintain all Town of Orchard Park approved software media, its licenses and documentation. Only IT approved and installed programs and systems may be used by Town of Orchard Park employees or authorized users on Town of Orchard Park equipment. Town of Orchard Park Government does own some software applications. These applications were developed in-house. Town of Orchard Park Government does not own all of the software used, but rather licenses the right to use software. Accordingly, town licensed software may only be reproduced by IT personnel in accordance with the terms of the software licensing agreements. Unauthorized copying, redistributing, and republishing of copyrighted or proprietary material are strictly prohibited. This includes photocopying of the user and operational manuals. Copyright laws

apply on the Internet as well. Copyright infringement is serious business, and Town of Orchard Park strictly prohibits any such activity.

F. COMPUTER HARDWARE CONFIGURATION CHANGES

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

G. PROTECT YOUR PASSWORD

Do not share your password with anyone. Do not write it down where someone can find it. Do not send it over the Internet, E-mail, or dial-up modem without an acceptable encryption technology. Users will be held accountable for activity performed under their password. Select difficult passwords. Change them regularly, and protect them.

H. PROTECT YOUR COMPUTER WHEN LOGGED ON

Desktop/Laptop computers or terminals shall not be left unattended whereby inappropriate access to Town of Orchard Park Government owned/held information may be gained by unauthorized persons. Employees should log-off when leaving their work area for 30 minutes or more.

I. GUARD AGAINST COMPUTER VIRUSES

The end user shall virus scan all files which are downloaded from the Internet or brought in on magnetic media from outside sources for work related purposes. IT provides current anti-virus scanning software to allow users to perform this task. It is the end user's responsibility to make sure that they understand how to use the anti-virus scanning software.

J. MAINTAIN PASSWORD ENCRYPTION

Various programs allow users to password protect individual files. All individual password protected documents shall have the password removed upon request by Department Head, an Information Technology employee, or prior to separation of employment with Town of Orchard Park Government.

K. PREVENT DATA LOSS

Users are responsible for the protection of essential data files and the security of important, confidential, or private information. Storing of these files and information on the desktop computer disk drive cannot ensure protection or security of the information. All important, essential, confidential, or private information must be stored on Town of Orchard Park Government Network (TOPGNET). Storing information on the Desktop computer is prohibited without prior authorization. TOPGNET is equipped with electronic and physical security. Activity on TOPGNET is monitored for tampering, and other security breaches. Maintenance and back up are performed on TOPGNET daily. Programs and other information are updated on the TOPGNET as necessary. Use

TOPGNET; it is safe, effective, and reliable. It is the end user's responsibility to make sure that they understand how to use TOPGNET.

3.2 ELECTRONIC MAIL

A. ONLY ESSENTIAL E-MAIL SHOULD BE SAVED

Employees should only retain e-mail that is of importance in a folder within GroupWise. Non-essential e-mail should be disposed of once it's acted upon. Refer to the Email Retention policy for retention and archiving procedures.

B. TOWN OF ORCHARD PARK GOVERNMENT'S E-MAIL IS PUBLIC RECORD

There is no "right to privacy" in e-mail communications. E-mail messages (both internal and via the Internet) constitute a public record and may be subject to public disclosure in accordance with applicable law. The use of a password does **NOT** create an expectation of privacy on behalf of any **user**.

C. TOP E-MAIL BEST PRACTICES

1. Unique IDs: The naming convention for e-mail user IDs ensures that each user is unique system-wide. This ensures unique Internet addresses.
2. Archiving: Archiving is a means to move messages (mail, tasks, appointments, notes, and phone messages) to a specified directory on a network server, reducing the burden of messages which the e-mail system must manage. The e-mail client will automatically delete mail items older than 14 days from the e-mail server, therefore; it is important to save e-mail to the TOPGNET server environment, as required per departmental retention schedules.
3. Attachments: E-mail should not be used for the wide distribution of large attachments. Sending graphics (.jpg, .bmp, etc.) large sound files (mdi, way), and movie files (avi) to multiple users is strongly discouraged. Shared/Common directories exist for the purpose of sharing of large attachments.
4. Capitalizing: Capitalizing whole words is generally considered shouting. Asterisks surrounding a word can be used to make a stronger point.
5. Subject Title: Make it easy for the reader to quickly locate messages by including an appropriate subject title for the message. Messages should be concise and to the point.
6. Chain Letters, Spam, and Hoaxes: Do not pass around e-mail chain letters. Do not Spam. Spam is unsolicited commercial e-mail (including non-approved fund-raisers). Don't pass around e-mail hoaxes. If a hoax is received, forward to IT only, so that IT can validate the hoax and then take appropriate action.

7. Training: TOPG provides basic e-mail training for end-users. TOP's e-mail software (Digital Towpath Project [DTP]) is a powerful collaborative tool.

D. USE E-MAIL AS APPROPRIATE

E-mail can be a powerful, productive, and time-saving tool when properly used. It is not however, a substitute for other necessary and appropriate forms of communication. When improperly used, e-mail can unnecessarily absorb valuable time and personal resources by requiring the daily review of large numbers of messages which may be unnecessary or more appropriately conveyed through face-to-face communication. For example, generally e-mail should not be used to communicate sensitive personnel information either to or about an employee. Counseling and/or reprimanding an employee via e-mail rather than a direct meeting is not appropriate. Additionally, in some instances more individuals than necessary may be copied on e-mail messages in an effort by the sender to cover all bases or shift some burden to message recipients. E-mail does not absolve the sender of necessary and appropriate verbal or in-person follow-up responsibility.

E. SENDING GROUP E-MAIL

1. Departments should be extremely judicious in sending unsolicited email to all employees using an "ALL_TOP" group that direct mails to everyone on the Digital Towpath mail system.
2. When improperly used, e-mail can unnecessarily absorb valuable time and personal resources.
3. E-mail should not be used to communicate sensitive personal or personnel information.
4. Department Heads should review large group messages originating from their departments for appropriateness before the message is sent.
5. The TOPGNET/DTP email system is Town property and thus falls under the Information Technology Use and Security Policy for use in official Town business.
6. Messages sent to the "ALL_TOP" group consume enormous amounts of employees' time to read and storage space on the IT systems, especially with image and file attachments. Messages with attachments for "ALL_TOP" should be established by contacting the Web master. The recipients of the e-mail will only need to click a link to open the image and/or file attachment.
7. Anyone sending a message to a large group of Town of Orchard Park recipients must include his/her E-mail address, telephone number and departmental affiliation in the message so that recipients can easily identify the sender.
8. When sending a large email, place all but one of the addresses in the blind carbon copy ("Bcc: ") field of the message. If the addresses are on the "Bcc:" field rather than the "To:" or "Cc:" fields, a reply to the message will go only to the original sender, not to the entire list of addressees therefore reducing the number of replies which could create another mass mailing.
9. Departments that make frequent or regular large group mailings are encouraged to maintain their own groups. Messages to these groups should have an introduction indicating willingness to remove an individual from the group if requested by return e-mail.
10. Keep mailing groups/lists current.

F. REPLYING TO GROUP EMAIL:

1. When replying to group email, just reply to the author to avoid spamming the others in the group.
2. When replies do go to all of the original addressees, each reply is also considered a mass mailing.
3. It's best to type in the address instead of relying on "reply."
4. The auto reply feature in Outlook is useful for in-house, however, users are discouraged from sending to entire mailing lists.

3.3 INTERNET

A. INTERNET USE/ACCESS

Internet use/access will be only used for official Town of Orchard Park Government business except as provided for in 3.1 b. Employees and authorized users will not operate a business through the Town of Orchard Park Government's Internet link.

B. GUARD AGAINST VIRUSES

Take all required precautions against importation of computer viruses. This includes virus scanning files obtained through the Internet utilizing the virus scan software provided by the Information Technology (IT) before the file is accessed in any way.

C. LIST SERVER SUBSCRIPTIONS

Employees and authorized users will not subscribe to any non-work related list servers, nor access any chargeable site without prior Town Supervisor authorization.

D. INAPPROPRIATE SITE ACCESS

Employees and authorized users will not access violent, pornographic or other inappropriate sites through the Internet.

E. STREAMING VIDEO OR AUDIO SITES

Employees and authorized users are not permitted to access or download streaming video or audio.

3.4 VIOLATIONS

Misuse of Town of Orchard Park's desktop/laptop computers/terminals and/or information technology services and breaches of information technology security is a violation of this policy and procedure and may result in disciplinary action, up to and including termination of employment.

4.0 USE OF SOCIAL MEDIA

4.1 DEFINITIONS:

A. Social media are media for social interaction, using web-based technologies to turn communication into interactive dialogues. Social media are works of user-created video, audio, text or multimedia that are published and shared in a social environment, such as a blog, wiki or video hosting site using software tools such as Facebook, MySpace, Flickr, etc.

4.2 GUIDELINES:

A. The Town use of social media will be implemented and evaluated in phases. Initial use of social media will be limited to Facebook using one way conversation i.e.: "likes", no "friends". Only one Town account with one User ID and Password will be permitted on Facebook. Only Town use of Social Media is permitted on Town systems and/or during work hours. Personal use of social media on Town systems and/or during work hours is prohibited, and violations of this rule will be punished up to, and including, discharge.

B. Facebook and other social media sites may only be utilized in connection with Town programs, such as a Recreation activity, or by those members of the Police Department as designated by the Chief of Police who may utilize these sites for law enforcement activity.

C. Use of any social media on work time must be specifically authorized by a Department head and performed in adherence with the employee's direct scope of work and responsibilities.

D. Employees should write in third person and identify themselves by Department, as applicable.

E. When placing materials and information on social media, put a link to the orchardparkny.org URL that is relevant to the posted information.

F. Staff authorized to use social media are responsible for complying with applicable federal, state and town laws, regulations and policies. This includes adherence to established laws and policies regarding copyright, records retention, Freedom of Information Act (FOIA) and other protected information such as Personal Identifiable Information (PII). Confidential information such as HIPAA protected content must remain confidential.

G. These guidelines may continually evolve as new technologies and social networking tools emerge. The Chief Information Officer will review social media site usage and provide policy recommendations to the Town Administrator on a continuing basis.

H. Town-wide access will be available on the network to such programs as Flickr, Picasa and Shutterfly for promotional use.

4.3 POLICY: TOWN BOARD RESOLUTION DATED MAY 16, 2012

If you have a Facebook or similar electronic media account and your personal profile indicates that you are an employee of the TOWN OF ORCHARD PARK and you decide to send or use vulgar, profane, inappropriate and/or sexual messages DELETE any and ALL references to your relationship with the TOWN OF ORCHARD PARK.

The TOWN OF ORCHARD PARK does not condone, practice, or accept the above-described behaviors.

The TOWN OF ORCHARD PARK does not censure your ability to communicate in any form you wish, and it does support an individual's right to communicate in any form he or she desires. THE TOWN OF ORCHARD PARK believes, however, that it has the right to limit the use of the TOWN OF ORCHARD PARK name and identification items associated with or provided by the TOWN OF ORCHARD PARK.

If you wish to denigrate, criticize, or gossip about any individual including but not limited to those associated with the TOWN OF ORCHARD PARK, then you are expected to remove any reference to your association with the TOWN OF ORCHARD PARK from your Facebook or similar electronic media account.

If you do not understand the term inappropriate message as described above ask your immediate supervisor or direct your inquiry to the Town Board of Orchard Park.

If you have a question about this Policy contact your immediate supervisor or the Town Board of Orchard Park before sending messages on electronic social networking sites where you have identified yourself as an employee of the TOWN OF ORCHARD PARK.

5.0 POLICY ADMINISTRATION AND REVIEW

5.1 PRIVACY RIGHTS

Information Technology (IT) and designated system administrators may, from time to time, have the need to review both employee messages and/or Internet use/access. E-mail on TOPGNET servers is the property of Town of Orchard Park Government. This policy allows for the e-mail administrator access to mailboxes for any of the following purposes:

- To retrieve lost messages; or
- To recover from system failures or monitor system performance.

This policy also requires approval from the Town Supervisor and/or Town Board before the e-mail administrator can access mailboxes for personnel issues or suspicion and any of the following:

- To comply with investigations into employee misconduct or suspected criminal acts;
- To ensure that TOP's systems are being used for TOP business purposes only; or
- For any other purpose authorized by the Town Attorney.

Users of the Town's system shall have no expectation of privacy, and the use of a password should not create an expectation of privacy.

5.2 MONITORING USAGE

All supervisors within the TOP's departments are responsible for ensuring that their employees are aware of these policies and procedures and adhere to them. Department Heads will require a signed "Information Technology Use/Access Release" form from authorized users, signed by the Department Head and then forwarded to the Information Technology (IT) prior to access activation. Signed access authorization forms will be included in employee's personnel record.

5.3 DEPARTMENTS ARE RESPONSIBLE To NOTIFY IT

The departments are responsible for providing notification to Information Technology (IT) via a Work Request when an authorized user (Full-Time or Part-Time) begins changes or ends employment with Town of Orchard Park Government. Non-employee authorized users no longer needing access requires IT being notified immediately and documented via a Work Request.

6.0 EXCEPTIONS

6.1 Provisions of this policy may be waived at the discretion of the Town Board. Any and all exceptions to this policy must be approved in advance.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

*** * * End of Information Technology Use & Security Policy * * ***

5.04 Personal Visits and Telephone Calls

Disruptions during working time can lead to errors and delays. Therefore, we ask that personal telephone calls be kept to a minimum, and only be made or received after working time, or during lunch or break time.

Employees are permitted on the premises during scheduled work hours, as a guest in public areas during operating hours and while attending authorized business functions. Access to non-public areas, and areas governed by internal control policies is restricted to Employees who are assigned to work in or who need to enter those areas to perform their jobs.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.05 Solicitation and Distribution

To avoid distractions, solicitation by an Employee of another Employee is prohibited while either Employee is on working time. "Working time" is the time an Employee is engaged, or should be engaged; in performing his/her work tasks for the Town. Solicitation of any kind by non-employees on Town premises is prohibited at all times.

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

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.06 Bulletin Boards

Important notices and items of general interest are continually posted on our bulletin board. Make it a practice to review it frequently. This will assist you in keeping up with what is current at the Town. To avoid confusion, please do not post or remove any material from the bulletin board.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.07 Confidential Town Information

During the course of work, an Employee may become aware of confidential information about the Town's business, including but not limited to information regarding Town finances, software and computer programs, and knowledge, skills and abilities of personnel. An Employee also may become aware of similar confidential information belonging to the Town's clients. It is extremely important that all such information remain confidential. Any Employee who improperly copies, removes (whether physically or electronically), uses or discloses confidential information to anyone outside of the Town may be subject to disciplinary action up to and including termination. Employees may be required to sign an agreement reiterating these obligations.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.08 Use of Facilities, Equipment and Property, Including Intellectual Property

Equipment essential in accomplishing job duties is often expensive and may be difficult to replace. When using property, Employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety standards and guidelines.

Please notify your supervisor if any equipment, machines, or tools appear to be damaged, defective, or needs repair. Prompt reporting of loss, damages, defects, and the need for repairs could prevent deterioration of equipment and possible injury to Employees or others. The supervisor can answer any questions about an Employee's responsibility for maintenance and care of equipment used on the job.

Improper, careless, negligent, destructive, or unsafe use of operation of equipment can result in discipline, up to and including discharge.

Further, the Town is not responsible for any damage to Employees' personal belongings unless the Employee's supervisor provided advance approval for the Employee to bring the personal property to work.

Intellectual Property

Employees are prohibited from any unauthorized use of the Town's intellectual property (including all intellectual property licensed to the Town), such as audio and video tapes, print materials and software.

Use of Vehicles

The Town of Orchard Park sets forth the following statement for Employee's requiring the use of Town owned or personally owned vehicles for the performance of their assigned duties.

No person will be allowed to operate a Town owned vehicle unless they are a Town of Orchard Park Employee and possess and maintain a valid appropriate New York State Operator's license for the vehicle to be operated.

The following job classifications are assigned Town vehicles for the exclusive use provided below:

1. The Town vehicles may be used to commute to and from work, Town related business during working hours, official Town business during times other than normal working hours such as meetings and hearings or minimal personal use such as lunch.
2. The Town Supervisor, Police Chief, Town Engineer, Highway Superintendent, and Deputy Highway Superintendent will be allowed the use of the Town vehicles for personal use with the Town of Orchard Park, provided they can be reached and willing to respond to their department needs. Authorization to operate such vehicles outside the radio limitations must have prior approval of the Town Supervisor.

An Employee operating a town vehicle may only carry as passengers in said vehicle other Town Employees and/or such other persons whose transportation in the Town vehicle is, in the opinion of the operator, in the best interest of the Town.

Town Employees who do not have a vehicle assigned to them for exclusive use must obtain permission from their respective supervisor for the use of said vehicle. Vehicle will only be used for official Town business during working hours or minimal personal use such as stopping for lunch.

Town Employees who are required and authorized to use their own personal vehicle on Town business during working hours will be entitled to reimbursement for actual mileage incurred in connection therewith at the rate authorized by the Town Board. The Employee, in using his/her own personal vehicle for Town business, assumes, and will provide, liability for such vehicle.

Employees operating Town vehicles are responsible, prior to operating, to check the necessary fluid levels for proper operations. Employees assigned Town vehicles for their exclusive use will be responsible to see that the proper maintenance is performed on such vehicle.

Use of Portable Communication Devices

Town-provided portable communication devices (PCDs), including cell phones and personal digital assistants, should be used primarily for business purposes. Employees have no reasonable expectation of privacy in regard to the use of such devices, and all use is subject to monitoring, to the maximum extent permitted by applicable law. This includes as permitted the right to monitor personal communications as necessary.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.09 Safety and Health

The health and safety of Employees and others on Town property are of critical concern to the Town. The Town intends to comply with all applicable health and safety laws. To this end, we must rely upon Employees to ensure that work areas are kept safe and free of hazardous conditions. Employees are required to be conscientious about workplace safety, including proper operating methods, and recognize dangerous conditions or hazards.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.10 Drug-Free Policy

On November 18, 1988, Congress passed, as part of the Omnibus Drug Legislation, the Drug-Free Workplace Act of 1988 requiring grantees of Federal agencies to certify that they will provide drug-free workplaces. On January 31, 1989, an interim final rule on these requirements was published in the Federal Register and such rule was effective March 18, 1989.

Grantees are required to certify that they will provide a drug-free workplace by:

- Publishing a statement notifying Employees that the distribution, possession or use of a controlled substance is prohibited in the workplace;
- Establishing a drug-free awareness program to inform Employees about the danger of drug abuse, any available drug counseling and rehabilitation, and the penalties that may be imposed upon Employees for workplace drug abuse violations;
- Providing Employees who work on the grant with a copy of the statement making it a condition of employment that they comply with the terms and notify the employer of any criminal drug conviction for a workplace violation within five (5) days;
- Taking appropriate action including termination of any Employee who is convicted of using drugs in the workplace; and
- Making a good faith effort to continue to maintain drug-free workplace.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.11 Employee Dress and Personal Appearance

You are expected to report to work well groomed, clean, and dressed according to the requirements of your position. Please contact your supervisor for specific information regarding acceptable attire for your position. If you report to work dressed or groomed inappropriately, you may be prevented from working until you return to work well groomed and wearing the proper attire.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.12 Publicity / Statements to the Media

The Town Board shall designate certain Town employees to serve as official Town spokespersons and primary media contacts. A list of such designations shall be provided to all Department heads, posted on the Town web site, and provided to members of the media upon request.

All calls, visits or contacts by reporters (or photographers if applicable) from radio, television, newspapers, magazines, etc. should be directed to the appropriate official spokesperson as designated by the Town Board. Absent a designated Town spokesperson, media inquiries should be directed to the Town Supervisor.

EXCEPT IN CASES OF PUBLIC EMERGENCY OR INVOLVING PUBLIC SAFETY, unless specifically designated as an official Town spokesperson on the subject at issue, no Town employee shall make any statement to the media on that subject.

In cases involving public emergency or involving public safety, any Town Department Head or acting Town Department Head may speak to the media or use any other forum to communicate important information to the public.

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

Nothing in this policy shall prohibit an employee from making any lawful statement, public or private, in the individual's personal capacity.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies
- Group 1 – Not Applicable

5.13 References

The Town will respond to reference requests by providing general information concerning the Employee such as date of hire, date of termination, and positions held. Requests for reference information must be in writing, and responses will be in writing.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.14 Separation From Employment

Separation from employment may occur via Resignation, Retirement, Lay-off, or Discharge. All Town property including, but not limited to, keys, security cards, laptop computers, fax machines, etc. must be returned at separation. Employees also must return all of the Town's Confidential Information upon separation. To the extent permitted by law, Employees will be required to repay the Town (through payroll deduction, if lawful) for any lost or damaged Town property.

Resignation

Employees may resign at any time for any reason. However, the Tow expects Employees to provide his/her supervisor with at least two (2) weeks advance notice of departure.

Retirement

Employees who retire from the town and who are eligible for the Town's retirement benefits must notify their supervisor prior to the anticipated retirement date as set forth by the New York State Retirement System

Lay-off

Employees do not have a guaranteed work schedule and are subject to lay-off and/or a reduction of hours at any time.

Discharge

An Employee may be discharged for, among other things, a violation of Town policy, violation of work rules, or unsatisfactory work performance, and where applicable, in accordance with New York Civil Service Law Section 75 and Section 76.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.15 No Smoking

New York State and Erie County Laws prohibit smoking in all indoor workplaces. Smoking is strictly prohibited in all Town buildings and in all Town vehicles operated by Employees. Failure to comply with this directive will subject the Town to a \$2,000.00 fine per violation. Any offending Employee will also be subject to discipline for violation of the regulation prohibiting smoking in all indoor work places, including vehicles.

Smoking allowed outside the enclosed place of employment must not adversely affect entry or exit to the facility. Therefore, to prevent persons from blocking entrances or from smoke being drawn into the building, smoking must not be permitted in close proximity to the entrances.

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.16 Workplace Violence

Workplace Violence Policy Statement:

The term “Workplace Violence” as used in this policy refers to the following:

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

The term “workplace” as used in this policy refers to all Town buildings, properties, and vehicles, and any other location where an employee performs work for the Town, such as, but not limited to, at a residence when reading a meter or repairing a leak, or on a roadside if a vehicle breaks down.

Examples of an incident of Workplace Violence being “related to the workplace”, even if off-duty or outside the workplace, could include an employee accosting another employee because of an argument they had at work, or a non-employee accosting an employee for the reason that he or she is an employee of the Town.

The Chief of Police of the Town of Orchard Park is responsible for ensuring that all safety and health policies and procedures involving workplace violence are clearly communicated and understood by all Employees. The Department Heads and supervisory personnel are expected to enforce the rules fairly and uniformly.

All Employees are responsible for using safe work practices, for following all directives, policies and procedures, and for assisting in maintaining a safe and secure work environment.

Our system of ensuring that all our employees, including supervisors and managers, comply with work practices that are designed to make the workplace more secure and do not engage in verbal threats or physical actions which create a security hazard for others in the workplace include, but are not limited to:

1. Informing Employees, Supervisors, and Department Heads of the provisions of our program for workplace security.
2. Evaluating the performance of all our employees in complying with our establishment’s security measures.
3. Recognizing Employees who perform work practices which promote security in the workplace.
4. Providing training and/or counseling to Employees whose work performance in complying with work practices designed to ensure workplace security is deficient.

5. Disciplining workers for failure to comply with workplace security practices.

Communication:

We recognize that to maintain a safe, healthy, and secure workplace, we must have open, two-way communication between all Employees, including Supervisors and Department Heads, on all workplace safety, health, and security issues. The Town encourages a continuous flow of safety, health and security information between management and our Employees without fear of reprisal.

Workplace Violence Policy:

Nothing is more important to the Town of Orchard Park than the safety and security of our employees. Threats, threatening behavior, or acts of violence against employees, visitors, guests or other individuals by anyone on Town property will not be tolerated.

Any person who makes threats, exhibits threatening behavior, or engages in violent acts on Town property shall be removed from the premises as quickly as safety permits and shall remain off Town premises pending the outcome of an investigation. The Town of Orchard Park's response to an incident of violence may include suspension and/or termination of any business relationship, reassignment of job duties, suspension or termination of employment, and criminal prosecution of those involved.

All Town of Orchard Park personnel are responsible for notifying the contact person designated below of any threats they have witnessed, received, or have been told that another person has witnessed or received. Personnel should also report behavior they regard as threatening or violent if that behavior is job-related.

An Employee who applies for or obtains a protective or restraining order that lists Town locations as protected areas must provide a copy of the petition and declarations used to seek the order and a copy of any temporary or permanent protective or restraining order that was granted.

The Town of Orchard Park recognizes and respects the privacy of the reporting Employee.

Designated Contact Person:

**Police Chief
Police Department
Phone: 716-662-6493 or 716-662-6400 x4001
Location: Police Station, S4295 South Buffalo Street, Orchard Park, NY 14127**

POLICY APPLICATION TO CLASSIFICATION OF EMPLOYEE:

- Group 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 – Applies

5.17 Password Construction and Protection Policy For Town of Orchard Park Employees

1. Overview

Passwords are a critical component of information security. Passwords serve to protect user accounts; however, a poorly constructed password may result in the compromise of individual systems, data, or networks. This policy provides best practices for creating secure passwords.

2. Purpose

The purpose of this policy is to provide best practices for the creation of strong passwords.

3. Scope

This policy applies to Town of Orchard Park employees, contractors, consultants, temporary and other workers, including all personnel affiliated with third parties. This policy applies to all passwords including but not limited to user-level accounts and system-level accounts owned and operated by the Town of Orchard Park.

4. Policy

4.1 Password Creation

- 4.1.1 All user-level and system-level passwords must conform to the *Password Construction Guidelines*.
- 4.1.2 Users must use a separate, unique password for each of their work related accounts. Users may not use any work related passwords for their own, personal accounts.

4.2 Password Change

- 4.2.1 As per NIST 800-63B, passwords should only be changed when there is evidence of compromise of the authenticator.
- 4.2.2 Password cracking or guessing may be performed on a periodic or random basis by the Orchard Park IT team or its delegates. If a password is guessed or cracked during one of these scans, the user will be required to change it to be in compliance with the Password Construction Guidelines.

4.3 Password Protection

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

- 4.3.2 Passwords must not be written down on stickie notes and stored on monitors, under keyboards or areas that may be visible or otherwise easily readable or accessible by any individuals.
- 4.3.3 Passwords must not be inserted into email messages or other forms of electronic communication, nor revealed over the phone to anyone.
- 4.3.4 Passwords may be stored only in "password managers" authorized by the organization.
- 4.3.5 Do not use the "Remember Password" feature of applications (for example, web browsers).
- 4.3.6 Any user suspecting that his/her password may have been compromised must report the incident to the Orchard Park IT Department and change all passwords.

5. Password Construction Guidelines

Strong passwords are long, the more characters you have the stronger the password. The Center for Internet Security and the SANS Institute both recommend passwords of 14 or more characters, the Town of Orchard Park therefore requires a minimum of 15 (fifteen) characters in your password.

In addition, we highly encourage the use of passphrases, passwords made up of multiple words. Examples include "*It's time for vacation*" or "*MayTheForceBeWithYou.*". Passphrases are both easy to remember and type, yet meet the strength requirements. Poor, or weak, passwords have the following characteristics:

- Contain eight characters or less.
- Contain personal information such as birthdates, addresses, phone numbers, or names of family members, pets, friends, and fantasy characters.
- Contain number patterns such as aaabbb, qwerty, zyxwvuts, or 123321.
- Are some version of "Welcome123" "Password123" "Changeme123"

6. Policy Compliance

6.1 Compliance Measurement

The Town of Orchard Park IT team will verify compliance to this policy through various methods, including but not limited to: periodic network monitoring, business tool reports, internal and external audits, and feedback to the policy owner.

6.2 Exceptions

Any exception to the policy must be approved by the Town of Orchard Park IT team in advance.

6.3 Non-Compliance

An employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

7 Related Standards, Policies and Processes

None.

8 Definitions and Terms

8.1 Passphrase

A passphrase is a memorized secret consisting of a sequence of words or other text that a claimant uses to authenticate their identity. A passphrase is similar to a password in usage, but is generally longer for added security.

9 Revision History

Date of Change	Responsible	Summary of Change
November 2018	Paul Pepero – IT Network Coordinator	Policy added to reflect NIST SP800-63-3

**TOWN OF ORCHARD PARK
PERSONNEL POLICY MANUAL**

General Policy Manual Acknowledgement

This Employee Policy Manual and every policy contained herein is an important document intended to help you become acquainted with the Town. Every Employee is expected to comply with the Town Policies set forth herein. This document is intended to provide guideline and general descriptions only; it is not the final work in all cases. Individual circumstances may call for individual attention.

Because the Town's operation may change, the contents of this Policy Manual may be changed on the Town Board resolution approved at a public Town Board meeting.

Please read the following statements and sign below to indicate your receipt and acknowledgement of this Employee Policy Manual.

I have received and read a copy of the Town's Personnel Policy Manual. I understand that I am required to comply with the policies and rules set forth herein. I further understand that the benefits described herein are subject to change at any time at the sole discretion of the Town Board.

Employee's Signature

Date

NOTE: This receipt shall be read and signed by the Employee and placed in the Employee's personnel file. In the alternative, a copy of a signup sheet from a meeting at which the Employ Policy Manual was distributed may be placed in the Employee's personnel file.