

Town Of Shaftsbury Personnel Policies and Procedures

Approved - May 21, 2012

Effective July 1, 2012

Vacation, Sick/Personal,
and Other Leaves, Section
8 on pages 14-15. Amended
by Motion at the September
15, 2014 Selectboard
Meeting.

Personnel Policies and Procedures

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PERSONNEL POLICY AND PROCEDURES

1. INTRODUCTION

1.1. Purpose

The purpose of these personnel policies and procedures is to inform employees of personnel guidelines of the Town of Shaftsbury, to establish effective communication between Town employees and the Selectboard, and to insure equity in the Town's administration of personnel matters. Please read all of the information presented in this booklet and keep it as a ready reference. When questions arise which are not answered in these Policies, do not hesitate to ask the Town Administrator or the Selectboard for assistance.

1.2. Authority

These Personnel Policies and Procedures replace all personnel policies and procedures previously adopted by the Selectboard.

2. CONDITIONS OF EMPLOYMENT

2.1. Employment at Will

These Policies and Procedures do not constitute a contract for employment in whole or in part. The Town reserves the right to add, amend, or delete any benefit or policy stated herein, at any time, except as otherwise committed to by written contract agreements. Employment with the Town of Shaftsbury is not for any definite period or succession of periods, and may be terminated either by the employee or by the Town at any time without cause or prior notice, except as otherwise provided by law. Wages or salary and any accrued benefits allowable under these policies and procedures shall be due to the employee only to the day and hour of termination. Employees will be notified of any changes to these policies and procedures upon adoption of the changes by the Selectboard.

These policies and any other policies or procedures published and/or maintained by the Town of Shaftsbury, or statements by town officials, are not intended to and do not grant any additional employment rights or benefits, are not inclusive of all town policies and expectations of employees, and should not be read or interpreted as altering the at-will relationship in any way.

2.2. Individuals Covered

Except as provided elsewhere in this document, these policies and procedures cover all regular full-time and part-time, temporary, and probationary employees of the Town of Shaftsbury.

These policies and procedures shall not cover the following:

1. Elected officials, officers, commissioners, members of boards and commissions, or volunteers of the Town, whether compensated or not, including appointments to vacancies in those positions;
2. Employees and officers whose appointments are statutorily the responsibility of a town officer or board other than the Selectboard;
3. Persons retained in a professional and/or consultative capacity to make special studies, investigations, or inquiries, give counsel, advice or render opinions; or perform specific tasks or services.

2.3. Administrative Responsibility

The Selectboard has the primary responsibility for administering these policies and procedures. Amendments to these policies and procedures shall be by resolution and adoption of the Selectboard. The Selectboard may, at its discretion, delegate implementation of these policies and procedures to the Town Administrator. Hereafter, reference to the Selectboard shall be interpreted to mean the Selectboard or the Town Administrator by delegation from the Selectboard.

2.4. Employee Records

The Selectboard, or its designee, shall maintain a complete record of an employee's employment with the Town. An employee's file is confidential and may generally be reviewed only by the employee, the employee's Supervisor, the Selectboard, Town Administrator, or Town Attorney for purposes of Town business. However, employees should be aware that certain information in the personnel file may be subject to public disclosure under the Vermont Access to Public Records Act.

3. DEFINITIONS

3.1 Types of Appointments

- 3.1.1 Probationary Appointment – Each new employee appointed to a regular full-time or part-time position for which the employee has not fulfilled the 6-month probationary requirement.
- 3.1.2 Regular Appointment – Regular employees have successfully completed the probationary period, and the conversion from probationary status to regular employee status has been authorized by the Town Administrator or Selectboard.
- 3.1.3 Full-time Appointment – Employees who work on a continuing basis for a minimum of 40 hours per week, or as otherwise determined by the Selectboard. The full-time employee is subject to all Town policies and procedures and receives those benefits and privileges as provided by this Personnel Policy.

- 3.1.4 Part-Time Appointment – Employees who work less than full time on a continuing basis, or as otherwise determined by the Selectboard. The part-time employee is subject to all Town policies and procedures and receives the benefits and privileges as determined by the Select Board.
- 3.1.5 Temporary Appointment – A full or part-time employee who is appointed to a position for a limited time period, not to exceed eighteen (18) months of continuous service. The temporary employee is subject to all Town policies and procedures and receives the benefits and privileges as determined by the Select Board.
- 3.1.6 Seasonal Appointment – A temporary appointment that is seasonal in nature and with a maximum duration not to exceed four (4) months of full or part-time hours. The appointment may be extended one time for an additional period of up to four months. The maximum duration of these positions is eight (8) months within a 12 month period. The seasonal employee receives no benefits beyond those required by law.
- 3.1.7 Emergency Appointment – To prevent disruption of public business or serious inconvenience to the public, the Selectboard may authorize appointment of employees on an emergency basis. In all cases such emergency appointments shall be for no longer than 60 days. After 60 days customary hiring procedures apply.
- 3.1.8 Student Appointments – a student appointment is a temporary appointment that has the purpose of affording enrolled students an opportunity to gain actual work experience and provide service to the Town. Student appointments are for a definite time period not to exceed twelve (12) months, require the approval of the Selectboard, and may be paid or unpaid. Student appointees must abide by these policies.

3.2 Holidays

The following legal holidays are recognized by the Town of Shaftsbury. Any other holidays shall be proclaimed by the Selectboard.

New Year’s Day	January 1
Martin Luther King	Third Monday in January
President’s Day	Third Monday in February
Memorial Day	Last Monday of May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veteran’s Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Day	December 25

3.2.1 **Observance of Holidays:** Legal Holidays occurring on a Saturday are observed on the preceding Friday. Legal holidays occurring on a Sunday are observed on the following Monday.

3.3 General Terms

For the purpose of these policies, the following words and terms are defined:

Abandonment - The unexcused absence from work of any employee for three (3) or more consecutive work days or four (4) days within a thirty (30) day period.

Appointment - The Selectboard's action to recruit and hire an applicant for placement in a vacant job/position with the Town.

At Will Employment - Employment with the Town of Shaftsbury is not for any definite period or succession of periods, and may be terminated either by the employee or by the Town at any time without cause or prior notice, except as otherwise provided by law.

Calendar Week - A calendar week is the period from 12:00 AM Sunday to the following 12:00 AM Sunday.

Customary Hourly Rate – Reflects the rate of pay for an hour worked of regular time (not overtime).

Days – Refers to calendar days unless otherwise described.

Department -- A functional unit of town government, e.g.: Highway Department, Selectmen's Office, Town Clerk's Office, or Treasurer's Office.

Immediate Family - Any employee's child, stepchild or ward who lives with the employee, foster child, party to a civil union, parent, spouse, or parent of the worker's spouse.

Overtime – Actual work performed in excess of 40 hours in a pay period.

Pay Period - 12:00AM Saturday to the following 12:00 AM Saturday.

Personal Interest – An interest which arises from family, business or political association, whether or not any financial interest is involved.

Probationary Period - The first six months of employment during which management more closely monitors and assesses the abilities, performance and potential of a newly hired employee . The probationary period must be completed before the employee is elevated to the status of a regular full time or part time employee, as authorized by the Town Administrator or the Selectboard of the Town of Shaftsbury.

Supervisor – Any person assigned by a job description and/or by action of the Selectboard the

responsibility to direct and supervise the work of others and to conduct performance evaluations.

Termination – End of employment.

4. RECRUITMENT AND EMPLOYMENT PRACTICES

The responsibility for recruitment and hiring of employees rests with the Selectboard. This includes the responsibility to negotiate the terms and conditions of employment, including compensation and benefits. The Selectboard may delegate to the Town Administrator the authority to recruit and make offers of employment.

4.1 Equal Employment Opportunities

The Town is dedicated to a policy against discrimination on the basis of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, age, or against a qualified disabled individual of any other characteristic protected by law in relation to all employment activities. Employment activities include but are not limited to, recruitment, hiring, promotion, demotion, transfer, discipline, layoff, termination, compensation, and training.

Consistent with the American with Disabilities Act and Vermont's Fair Employment Practices Act, it is the policy of the Town to provide reasonable accommodation to an otherwise qualified employee or applicant with a disability who can perform the essential functions of their job, unless such accommodation would cause an undue hardship. The obligation to make reasonable accommodation applies to all aspects of employment, including the application process.

4.2 Appointment and Probationary Period

All appointments and promotions to full-time and part-time positions shall be subject to a six (6) month probationary period. At the discretion of the Selectboard, in consultation with the employees' Supervisor, the probationary period may be extended for up to an additional six months. During the probationary period the Selectboard may terminate the employee at any time without cause.

4.3 Appointment of Immediate Family Members

It is the policy of the Town of Shaftsbury that no Supervisor will have employed under his or her supervisory authority any immediate family member. However, due to the short and limited nature of emergency appointments, this policy may be waived at the discretion of the Selectboard in emergency hiring situations.

4.4 Performance Evaluation

- 4.4.1 All regular full-time and part-time employees of the Town of Shaftsbury shall be subject to periodic job performance evaluations. Employees must participate. The results of the evaluations may be the basis for any merit pay increases awarded in the year of the review. Performance evaluations may also be taken into consideration, if the question arises, as to whether a person's employment with the Town shall continue. Copies of a performance evaluation shall be given to the employee and entered into the employee's personnel file.
- 4.4.2 Probationary Employees - Supervisors shall evaluate the performance of probationary employees after 6 months. Prior to completion of the probationary period, the probationary employee's Supervisor should make a recommendation about continuing the probationary employee's employment and conversion to regular employee status, termination, or extension of the probationary period. If the evaluation is fully satisfactory, the Selectboard may upgrade an employee's status, extend the probationary period, suspend, or to terminate the employee, as the Selectboard deems appropriate.
- 4.4.3 Temporary Employees - Supervisors shall evaluate temporary employees at the completion of the appointment. The Selectboard, after receipt of the evaluation, may elect to continue, extend, or terminate such an appointment without cause.
- 4.4.4 The lack of a formal evaluation does not affect the Selectboard's ability to exercise its rights under the At Will Doctrine.

4.5 Promotions

Every regular employee shall be eligible for promotion subject to the availability of positions. Once promoted, the employee is subject to a six-month probationary period. If during this probationary period the Selectboard determines that the job is not being satisfactorily performed, the employee may be returned to their former position and former wage rate – if the position is still vacant.

4.6 Layoff

Any Town employee may be laid off whenever it is necessary to reduce the number of employees in any department, because of the change in the function or organization of a department, financial restrictions, changes in work demands, elimination of job categories, or related reasons.

Seniority shall not be the determining factor when the Town must lay off employees. The Selectboard may lay off employees with greater seniority and retain employees with less seniority. The factors that the Selectboard may consider include, but are not limited to, the following:

4.6.1 The special contribution, skills, and performance of a less senior department employee.

4.6.2 Reasons why departmental operations would be best maintained through the retention of a position filled by a less senior employee.

4.7 Termination

If an employee is terminated, his or her wages or salary and any accrued benefits shall be due to the employee only to the day and hour of termination.

Any employee may resign at any time by submitting a written letter of resignation to the Selectboard. An employee shall be deemed to have been terminated in good standing if he or she gives two weeks notice, and if other circumstances of his or her termination are such as to justify good standing.

Upon termination, an employee may receive two checks: 1) a check for completed work week, and 2) a check for the total accrued benefits. In the event that the employee has taken un-accrued leave time, adjustments will be made to employee's final paycheck(s). Adjustments shall be at the rate of pay equal to an employee's customary hourly rate of pay. Any payment due a terminating employee in light of vested interests in the Town's retirement program shall be determined according to the terms of the retirement system.

5. EMPLOYEE HEALTH AND SAFETY

5.1 Communication

Communication is essential to an effective and pleasant work environment. The Town recognizes its responsibility to keep employees informed about developments, policies, and procedures that affect the Town and the work of its employees.

The Town of Shaftsbury seeks to promote and maintain an "open door policy" so that every employee feels free to express their opinion on all Town matters. The Town believes that in order for employees to be constructive, they should first bring their ideas, comments, suggestions, or complaints to their Supervisor and/or in keeping with the Town's grievance procedures outlined in Section 8.4.

The Town seeks to promote additional avenues for communication within the Town as follows:

5.1.1 Supervisors are the first source of information and contact for Town employees. Supervisors shall make every effort to ensure that information is brought to the attention of employees.

5.1.2 The Selectboard maintains a centrally located and readily available bulletin board for announcements from the Town. Department Heads are responsible for ensuring that the bulletin boards are used, and that announcements and other information affecting employees are posted in a timely manner. Employees are responsible for checking the bulletin boards for information regarding the Town, work-related matters, and other related information.

5.2 Drug Free Workplace and Drug and Alcohol Testing

The Town of Shaftsbury has adopted a Drug Free Workplace Policy and an Alcohol and Drug Testing Policy in accordance with requirements of state and federal law. These policies are set forth and attached in Appendices A and B.

5.3 Smoke-Free Workplace Policy (see Appendix D)

5.4 Sexual Harassment Policies (see Appendix C)

5.5 Work Place Safety

The Town of Shaftsbury is committed to provide a safe and healthful workplace and to comply with applicable federal, state and local laws and regulations relating to the safety and health of its employees. Each Supervisor will, as soon as possible, take prompt and appropriate action to correct any unsafe or unsanitary condition or action they observe. Each employee is responsible to maintain a safe and sanitary work environment for him or her and fellow workers. All employees shall report observed unsafe or unsanitary conditions or conduct to the Selectboard.

6. WAGES AND COMPENSATION

All Town employees shall be compensated in accordance with time sheets that are submitted to the Town Administrator and approved by an employee's Supervisor and/or the Town Administrator. The Selectboard may, in the exercise of its sole discretion, establish an employment contract with an individual employee. Such contracts shall be in writing. The Selectboard may, at its discretion, adopt and amend payroll policies.

6.1 Annual Review

Wages may be reviewed annually by the Selectboard. Adjustments may be recommended to the Selectboard by a Supervisor or the Town Administrator. The Selectboard may make changes in the wage ranges and the salaries of particular positions as the Selectboard deems appropriate.

6.2 Travel

If an employee is required to travel in the performance of his or her official duties, the Town shall pay for said expense as defined below. All out-of-pocket or mileage expenses shall be pre-approved by the Selectboard to be eligible for reimbursement by the Town.

6.2.1 Personal Car Mileage – at a rate authorized by the Selectboard annually.

6.2.2 Expenses – on an actual expense basis with receipts required for lodging and other expense and in accordance with budgeted stipends established by the Selectboard annually.

6.3 Overtime Compensation

Overtime compensation is only paid to an employee who performed work in excess of forty (40) hours in a single calendar week. Sick/Personal, holiday, and vacation leave do not count towards hours worked. Compensation will be by monetary reimbursement at the rate of 1.5 times the employee's customary hourly rate. Payment for overtime will be in wages. Compensatory time may only be accrued with prior approval by the Selectboard.

Supervisors shall be responsible for ensuring compliance with the following procedures concerning issues of overtime compensation:

6.3.1 All overtime work must be approved by the Supervisor or Town Administrator prior to being worked. No overtime work shall be reimbursed without prior approval of the Supervisor or the Town Administrator. It is understood that in order to minimize overtime expenses, the normal work week schedule may be adjusted.

6.4 Holiday Compensation

6.4.1 Full-time employees and any other employees entitled to holiday compensation will receive eight hours pay at their customary hourly rate for the holidays defined in Section 3.2 of this personnel policy.

6.4.2 Employees entitled to holiday compensation shall receive holiday compensation beginning at the date of hire.

6.4.3 Any employee entitled to holiday compensation who is required to work on a holiday as defined in Section 3.2 of this personnel policy shall be paid at 2.5 times their customary hourly rate, which is in lieu of, rather than in addition to, regular or overtime pay.

6.4.4 Employees entitle to holiday compensation shall be paid for a minimum of 2 hours if required to work on a holiday as defined in Section 3.2 of this personnel policy.

- 6.4.5 Holiday pay shall include the time period from midnight on the eve of the holiday to midnight on the day of the holiday.
- 6.4.6 Actual hours worked on a holiday shall count towards the 40-hour work week for overtime compensation purposes.
- 6.4.7 Employees not entitled to holiday compensation may be granted the day off without compensation.

7. EMPLOYEE BENEFITS

7.1 Insurance and Related Benefits

- 7.1.1 **Statutory Benefits** - All eligible Town employees will be enrolled in the statutory Social Security, Workers' Compensation and Unemployment Compensation Benefit Programs, as required by law.
- 7.1.2 **Health Insurance** - All regular full-time and probationary full-time employees are eligible from date of hire to be enrolled in the Town's health insurance program. The terms of the health insurance program can be obtained from the Town Administrator.
- 7.1.3 **Short-Term Disability/ Life Insurance** – Regular, full-time employees are eligible for the Town's Short-term Disability and Life Insurance program. Terms of the Short-term Disability and Life Insurance programs can be obtained from the Town Administrator.
- 7.1.4 **Right to Change Benefits** -Benefits are reviewed annually by the Town. The Selectboard reserves the right to change health insurance carriers, health insurance programs and employee participation rules as the Selectboard deems to be in the best interest of the Town.
- 7.1.5 **Workers Compensation Insurance** – Pursuant to the Vermont State Statutes (21 V.S.A. 601-709) the Town of Shaftsbury provides Worker's Compensation insurance for all employees, which addresses employment-related illness or injury.

7.2 Retirement

The Town is a member of the Vermont Municipal Employee's Retirement System. The terms, conditions, and qualifications for that system are as set forth in Title 24, Vermont Statutes Annotated Chapter 125 as amended from time to time. Information on the program and an explanation of benefits is available in the Town Administrator's Office. An employee meeting the eligibility requirements must join the system as a condition of employment.

8. VACATION, SICK/PERSONAL, AND OTHER LEAVES

Leave time is a benefit offered by the Town of Shaftsbury to its employees including leave required by law. Vacation and sick/personal leave time are earned as a result of time worked at rates described in this section of Shaftsbury’s Personnel Policies and Procedures.

The Town of Shaftsbury’s benefit year will coincide with its fiscal year - July 1 to June 30. Employees will receive a summary of leave benefits available at the beginning of each month. Employees hired during the benefit year, will have leave benefits prorated to the end of the fiscal year and begin again on July 1.

Employees of the Town of Shaftsbury must either be at work during the normal work week or absent with approval on one of the authorized leaves specified in this section as follows: vacation leave, sick/personal leave, leave of absence, injury or disability leave, court or military leave, or educational leave. Any unexcused absence is subject to disciplinary action up to and including dismissal.

Paid leaves including vacations, sick/personal leaves or other leaves of absence, unless stated specifically otherwise, pertain to regular employees of the Town. Full-time employees who work 40 hours per week on a continuing basis, will earn the full benefits allowed.

If any language in this section is found to be in conflict with State or Federal Law, this section will be interpreted to conform to applicable law.

8.1 Vacation Leave

Vacation is important to an employee’s well-being and taking vacation helps promote a good attitude towards work. Therefore the Town expects its employees to take vacations. Payment of wages in lieu of vacation time is not allowed.

8.1.1 Only employees with regular employee status will be entitled to use earned_vacation credits. Temporary and emergency appointments do not earn vacation credits.

8.1.2 Probationary employees earn vacation credits during the probationary period at rates specified for regular employees. Earned vacation credits can only be utilized once the employee becomes a regular employee

8.1.3 Regular full-time employees working 40 hours per week are eligible for paid vacation days according to the following schedule:

<u>Years of service (Inclusive)</u>	<u>Full time (40 hrs/week)</u>	<u>Rate at which earned</u>
0 - 1 yrs	(5 days/year)	3.33 hrs/mo
2 - 4yrs	(10 days/year)	6.66 hrs/mo
5 years service and beyond	(15 days/year)	10 hrs/mo

- 8.1.4 ~~Vacation Credits are earned a per pay period basis.~~ All vacation leave is earned from the date of hire. ~~Vacation credits accrue while an employee is on vacation leave.~~
- 8.1.5 The following shall apply to the exercise of vacation benefits:
- 8.1.5.1 After completing the first year of employment, each employee is required to take a minimum of five days of vacation during each calendar year of employment.
- 8.1.5.2 Employees may carry over no more than 5 days (40 hours) of accrued vacation leave from one benefit year to the next. Vacation leave carried over shall be used prior to ~~December 1 in~~ the end of the new fiscal year (June 30). Accrued vacation leave in excess of 5 days may not be carried over and will be forfeited.
- 8.1.5.3 The scheduling of vacation time shall be the responsibility of Supervisors/Department Heads. Scheduling shall attempt to accommodate the preferences expressed by department employees. An employee must give 30 days notice should they be planning vacation leave of more than two weeks.
- 8.1.5.4 Any eligible employee unable to work by virtue of extended illness, family or medical leave, accident or layoff may use accumulated vacation time upon the exhaustion of available sick leave.
- 8.1.6 Upon an employee's termination of service with the Town, an employee shall be reimbursed for accrued but unexercised vacation time. If an employee's used vacation time exceeds earned vacation time at the time of termination, the deficit amount will be deducted from the employee's final paycheck.

8.2 Sick/Personal Leave

Sick leave is provided to enable employees to respond to an illness and care for them as may be most appropriate. Personal leave is provided to enable employees to respond to personal matters that cannot be attended to outside the workday. If an employee cannot report to work, the employee must notify his/her Supervisor as far in advance of normal working hours as possible.

An employee may use sick/personal leave for the following purposes:

- A) Period of personal illness.
- B) Serious illness or death of an immediate family where the employee's attendance is required.
- C) Medical appointments for the employee's immediate family.
- D) Pregnancy and related medical conditions.
- E) Personal matters requiring attention during a regular work day.

- 8.2.1 Rate of Accumulation: Employees are entitled to 12 sick/personal days each year. All regular full-time employees shall be entitled to accumulate sick/personal leave per pay period. Probationary employees may only take earned sick/personal time during the probationary period due to illness.
- 8.2.2 Credits are earned on the basis of full months of employment. Employees beginning work on or before the tenth (10th) day of each month will earn a full month's sick/personal leave credit. Employees terminating on or after the twentieth (20th) day the month will be credited with a full month's sick/personal leave credit. Employees not meeting these criteria will earn no credit for that month of initial or final employment.
- 8.2.3 Credits continue to accrue while an employee is on sick/personal, vacation, or other authorized leave.
- 8.2.4 Sick/Personal leave may be accumulated and carried forward from year to year. The maximum limit of sick/personal leave that may be carried forward is (twelve) 12 sick/personal days.
- 8.2.5 Upon termination of employment with the town, an employee will not be compensated for unused sick/personal leave.
- 8.2.6 Any employee whose absence for reasons of illness or injury extends beyond three (3) consecutive workdays shall, at the Supervisor's request, provide his or her Supervisor with a statement from a licensed physician attesting to the employee's inability to work. A physician's statement shall be submitted on a weekly basis for as long as the employee remains absent for reasons of illness or injury.
- 8.2.7 A supervisor's preapproval is required in cases where personal leave will exceed one work day.

8.3 Disability Leave

Disability leave is designed to provide employees who suffer an injury or illness time to recover without experiencing undue financial hardship.

An employee who suffers an injury or illness while on the job may be entitled to Worker's Compensation benefits. The Worker's Compensation program is administered by the state of Vermont, and a handbook explaining the Worker's Compensation program is available to the employee from the Town Administrator.

An employee unable to perform their job due to injury or illness may be entitled to Employee Disability Insurance benefits. Employees can obtain a copy of the Town's Disability Insurance plan from the Town Administrator. The Town Administrator will assist the employee with application for Disability Insurance benefits.

Employees may be compensated for the same work period by both the Town and injury or

disability insurance, but any combination of compensation shall not exceed the normal compensation the employee would otherwise have received had the injury not occurred. The terms of the Town's insurance policies change from year to year. The Town is bound by the terms of its insurance policies.

8.3.1 **Prior to Commencement of Benefit Payments:** While awaiting the commencement of benefit payments, the injured employee may elect to use accrued sick/personal and vacation leave.

8.3.2 **Following Commencement of benefit payments:**

8.3.2.1 **Benefit Payments Only:** The days the employee is absent while receiving these benefits will not be deducted from the employee's accrued sick/personal leave. The employee will not receive regular pay during this time.

8.3.2.2 **Supplemented Benefits Payments:** If the employee has accrued sick/personal and/or vacation leave, the employee's worker's compensation insurance benefits may be supplemented by unexercised sick/personal and/or vacation leave, paid through the Town's payroll system, to insure the employee continues to receive full pay for the days they are unable to work. This option would allow the employee to retain their worker's compensation insurance payments, thus realizing the tax advantages of those payments. Disability insurance payments cannot be supplemented, per the terms of the disability insurance policy.

8.3.3 **Reporting requirements:** The injured employee shall report, upon receipt of first disability payment, to the Town Administrator the amount of disability insurance proceeds received.

8.3.4 **Benefit payments:** The injured employee will continue to receive full benefits from the Town during the period of illness while receiving short term disability benefits.

8.3.5 **Employee benefit contributions –** During any period of illness, it will be the employee's responsibility to pay the Town for the employee's share of benefit contributions. If the payroll amount is inadequate to satisfy those deductions, it will be the employee's responsibility to make separate payment to the Town to satisfy those employee costs. The required payment amounts and payment schedule shall be obtained from the Town Administrator.

8.3.6 **Overpayment of Compensation and/or Benefits**

If it is determined that the total benefits payments from the Town compensation plan (including pay, sick/personal, vacation, and holiday time) and from Workers Compensation and Disability Insurance plans have resulted in payments to the

employee that exceed their normal income for the same time period, the Town may require reimbursement from the employee of the excess amount of benefits.

8.4 Court Leave

Court leave or “jury leave” will be granted to employees of the Town in compliance with State law in recognition by the Town that it is a civic obligation of each Town employee to serve jury duty if called.

8.4.1 All regular employees shall be reimbursed at their customary rate of pay for work absences due to jury duty or appearing as a witness under legal compulsion related to Town business. Payments by the Town under this provision shall be reduced by any amount received by an employee as compensation for jury duty or appearance as a witness. All other benefits, accruals, and seniorities associated with Town employment will continue uninterrupted by the court leave. However, as with 6.4.5 above, the employee shall reimburse the Town for employee share of benefit contributions.

8.4.2 Temporary employees will be granted court leave in accordance with the law but will receive no wages from the Town during the period of court leave.

8.5 Military Leave

In accordance with the State law regular employees who are duly qualified members of the “reserve components” of the armed forces, who are members of the ready reserve, or who are members of an organized unit may take military leave to attend required weekend training exercises and one required extended training exercise not exceeding 15 days in one calendar year. All other benefits, accruals, and seniorities associated with Town employment will continue uninterrupted by the military leave. The employee will be required to submit evidence of qualified membership, date of departure, date of return, satisfactory completion of the service, and pay and compensation during the military leave. The employee may elect to receive no pay from the Town and to retain the full amount of the compensation for the military leave. Alternatively, the employee may elect to receive, and the Town will pay, the difference between the employee’s customary rate of pay and the training allowance which an employee receives while on military leave under this Section, if the training allowance is less than the employee’s customary rate of pay. Requests for additional leaves of absence for military purposes may be considered by the Selectboard on a case-by-case basis. In no event will the Town pay any sums which would result in the total compensation from the Town plus the Military leave equaling greater than that sum of normal wages the employee would have

8.6 Educational Leave

The Town is committed to employee’s professional development and continuing education. Due to the small size of the Town and its limited administrative resources, the Town does not offer educational leave for full-time attendance at any degree-granting college or university. The Selectboard may, at its discretion, approve employee requests to attend workshops or

seminars that provide job-related training or requests for educational leave with or without pay as the Selectboard deems appropriate.

9. EMPLOYEE CONDUCT AND ETHICS

9.1 Employee Conduct

Because of the public trust invested in Shaftsbury Town Government, it is the duty of every Shaftsbury employee to conduct his or her duties in a professional manner. High standards of conduct are essential to good municipal service and are expected of each employee. In an effort to encourage professionalism, efficiency, and the effective delivery of services by Town personnel, all employees shall comply with the following conduct guidelines.

- 9.1.1 Reporting Time--Employees of the Town of Shaftsbury will report to work promptly at the beginning of the standard work day for the department for which they are employed, and any unexpected absences shall be reported as soon as possible. An employee failing to report to work without explanation for three consecutive work days, or four workdays in within a 30 day period, shall be considered to have abandoned his or her position. When for health or other reasons an employee is unable to complete a work day or give full attention to his or her work assignment, he or she shall notify his or her Supervisor and request to be excused from work on leave.
- 9.1.2 Discharge of Job Duties - Each employee shall faithfully and diligently discharge all obligations relating to their position with the Town. Employees will read their job description and ask their Supervisor or the Selectboard for clarification of any statements of responsibilities not clear to them. During the hours of duty, employees shall also abide by the other laws, rules, and regulations which govern the discharge of their responsibilities – i.e. VOSHA, traffic laws, etc. All employees shall strive to acquire, develop, and master the skills required by their position.
- 9.1.3 Duties as Assigned - Employees will perform their duties as assigned by their Supervisor.
- 9.1.4 Dress - Employees shall dress and use personal hygiene standards in a manner befitting service for the Town and appropriate for the work assignment. Employees shall be fully clothed, clean, and use shoes and head covering appropriate to the work assignment.
- 9.1.5 Safety - Employees of the Town of Shaftsbury will work in a safe manner. Employees will at all times perform job-related duties with the proper precautions and in a manner such as to assure the safety of themselves, fellow employees, and the public. Safety equipment, recognized safety procedures and policies, and safety instructions of Supervisors will be followed.

9.1.6 Accidents - Any employee involved in an accident while performing work duties, no matter how small or insignificant, shall report the accident to his or her Supervisor within the same day of occurrence. Special conditions may require delay, but in no case shall the delay in reporting extend beyond noon of the next day. Severe accidents shall be reported to an employee's Supervisor and the Selectboard immediately. An accident report will be completed as soon as possible after the occurrence.

If, while operating a Town-owned vehicle, an employee is involved in an accident that results in any personal injury or property damage, he or she shall:

9.1.6.1 Notify the State Police, as required by law; and

9.1.6.2 Insist that all parties and property concerned remain at the scene of the accident until police officers investigate; and

9.1.6.3 Report the accident, no matter how small, to his or her Supervisor. No employee shall discuss any such accident with anyone but the investigating officer.

9.1.7 Any employment related injury or illness must be reported immediately to a Supervisor, who should then complete a "first report of injury" form available in the Town Administrator's Office. Completed forms must be returned to the Town Administrator for filing with the Town's insurance carrier. Failure to report an injury or illness may jeopardize the claim for Worker's Compensation.

9.1.8 Outside Employment—No person may take outside employment that impairs performance of his or her job duties or that presents a conflict of interest.

9.1.9 Physical Condition – Each employee shall maintain the physical capacity to perform the essential functions described in his or her job description.

9.1.10 Work Relationships – All employees shall maintain polite and productive work relationships. All employees shall treat Town employees, officials and volunteers with respect and dignity.

9.1.11 Use of Town Property and Equipment– Town employees shall use Town property and facilities solely for Town purposes and not for personal gain or benefit. Employees shall not use Town equipment and vehicles while under the influence of a drugs.

9.1.12 Public Respect – Because the Town must maintain public confidence, its work force needs to be composed of responsible and professional individuals. No employee should engage in any conduct which would have the effect of impairing the Town's reputation for reliability, trustworthiness, and efficiency. All employees shall treat members of the public with respect and dignity.

9.1.13 Political activity – No Town employee shall engage in partisan political activity during the course of working hours. No employee shall solicit contributions, whether orally or in writing, in relation to any political organization or in support of any candidate for public office from any other Town employee during working hours. During working hours, no employee shall contribute directly to or solicit for a campaign of any official running for a political office. This rule is not to be construed to prevent a Town employee from being a member of a political party, from signing petitions for a candidate for public office, or from voting or engaging in any other political activity outside of working hours.

9.2 Employee Ethics

9.2.1. Favoritism – No employee of the Town shall provide to any person any gift, money, thing, favor, promise, treatment, or advantage which is distinct from the treatment normally accorded to members of the public at large.

9.2.2. Financial or Personal Interest – No Town employee shall have any personal or financial interest in transactions in which the Town is a participant. Whenever the performance of a Town employee's official duties require that the individual take action in respect to any matter in which the individual has a personal or financial interest, he or she shall disclose the nature and extent of such interest and shall be disqualified in any manner from participating in the Town's consideration or disposition of that matter, with the exception noted below in 9.2.3.

No official action of the Town of Shaftsbury shall be voidable or void as a result of the participation of a disqualified person under this policy if the action otherwise conformed to applicable law. However, the disqualified person may be subject to disciplinary action, up to and including removal or dismissal, for violation of the policy.

9.2.3. Contracts – No employee of the Town shall be beneficially interested directly or indirectly in any contract with the Town, regardless of the amount; or furnish any material, or perform any labor, except in the discharge of his or her official duties, unless such contract shall have been awarded upon bids advertised for by publication. No employee of the Town shall take part in any decision concerning the business of the Town in which he or she has a direct or indirect financial interest, aside from his or her compensation as an employee, greater than any other citizen or taxpayer in the Town. This section shall not apply in the event of an emergency where immediate action shall be deemed more important to the Town than the receipt of formal bids. No Town employee shall appear on behalf of any private person, before any Town board, commission, council or other Shaftsbury body.

9.2.4. Gifts – No employee of the Town shall accept any gift, money, thing, favor, or promise with a monetary value of more than twenty-five dollars (\$25.00) that is intended, or could be considered as payment for special treatment or an effort to affect the employee's discharge of official duties.

- 9.2.5. Confidentiality – No employee of the Town shall disclose any confidential information relating to the officers, employees, property transactions, or affairs of the Town without prior authorization from the Selectboard. Nor shall any Town employee use or assist in the use of any such confidential matter to advance the financial interest of any other individual.
- 9.2.6. Nepotism – No employee of the Town shall appoint or attempt to influence the appointment of any person related to them by blood or marriage to any position for which compensation is received from the Town. This policy may be waived during emergency hiring situations at the discretion of the Selectboard.
- 9.2.7. Phone Calls – Telephone and cell phone use shall be for work-related purposes only. Employees can be reimbursed for business calls that they make from their home phone.
- 9.2.8. Internet Use: Computer and internet usage shall be related to Town business only. Improper use of the internet may be grounds for dismissal.
- 9.2.9. Text Messaging: is prohibited while driving Town vehicles, and non-work related texts are to be avoided during work hours.
- 9.2.10. Solicitation and Distribution – Solicitation and/or distribution of literature for any purpose, cause, or activity during working hours and/or on or within public property is prohibited.

10. GROUNDS FOR DISCIPLINARY ACTION

10.1 Grounds for Disciplinary Action

The following conduct is unacceptable for all employees of the Town of Shaftsbury. All confirmed instances of any of the following conduct shall be considered violations of the Town's Employee Conduct guidelines and are subject to disciplinary action which may range from a verbal reprimand to dismissal.

- 10.1.1 Text Messaging while driving a Town-owned vehicle.
- 10.1.2 Tardiness, unexcused absence, or job abandonment.
- 10.1.3 Use of drugs during working hours or in a manner which affects job performance consistent with the Town's Drug Free Workplace Policy. (*see Appendix A "Drug Free Workplace".*)
- 10.1.4 Failure to respond to direction of the employee's Supervisor or the Selectboard, or inability to relate to, work with, and perform job tasks with fellow employees or Supervisor.

- 10.1.5 Improper use of position, including giving, rendering, paying, or receiving any service or other valuable thing on account of or in connection to any appointment, proposed appointment, promotion or proposed promotion.
- 10.1.6 Breach of the provisions and standards set forth in Section 7.2, "*Employee Conduct and Ethics*".
- 10.1.7 Lack of productivity, failure to discharge job obligation, inefficiency, or incompetence.
- 10.1.8 Gambling, sleeping on duty, theft, disregard for safety rules, falsifying work records, falsifying time and attendance reports, lying in general, or otherwise engaging in any other such behavior which would constitute a negative influence on employee's work habits.
- 10.1.9 Action during working hours which constitute a threat to the safety of the public or fellow employees or to Town property. Possession of firearms or any other dangerous weapons while on duty is prohibited.
- 10.1.10 False representations on job applications.
- 10.1.11 Willful and/or negligent destruction of property, improper use of Town property, facilities, or funds; conviction of criminal offense; or engaging in prohibited political activity as described in Section 9.1.13.
- 10.1.12 Malfeasance, misfeasance and/or nonfeasance, or the doing of an illegal deed, wrongfully doing a legal deed, or the failure to perform deeds that should be done is prohibited.
- 10.1.13 Any other conduct that impairs the efficiency and effectiveness of Town government, or which could cause public mistrust of an employee's professionalism.
- 10.1.14 Any violation of this policy or any other Town policy.

10.2 Disciplinary Alternatives

In response to conduct which is listed above as grounds for disciplinary action, the Selectboard, upon consultation with the employee's Supervisor, may take any of the actions described herein. In determining whether disciplinary action is necessary and, if so, what disciplinary action is appropriate, the Selectboard and Supervisor may consider the nature and severity of the objectionable conduct, the employee's prior performance and disciplinary record, the effect of the employee's prior performance and disciplinary record, the effect of the employee's activity on municipal operations, employee morale and the efficient operation of Town government, the effect of the employee's activity upon public confidence in Town government, and the past and potential contribution by the employee to the Town service.

The decision as to what discipline alternatives are imposed is within the discretion of the Selectboard.

- 10.2.1. Reprimand – A written statement, signed by the relevant Supervisor and Selectboard, notifying the employee of conduct considered objectionable, actions necessary to improve the situation, and specifying that recurrence of the same or similar activity will result in more severe disciplinary action, including dismissal. The reprimand shall be filed with the employee's personnel records.
- 10.2.2. Suspension Without Pay – The temporary removal of an employee, by the Selectboard in consultation with the relevant Supervisor, from the performance of job functions for a period ranging from one work day up to but not exceeding thirty (30) work days in any twelve-month period of employment. An employee suspended without pay shall not accrue benefits. The Employee is responsible for employee's full cost of benefits during suspension.
- 10.2.3. Demotion – The reduction of an employee's job responsibilities and/or rate of pay.
- 10.2.4. Dismissal – The permanent termination of an employee's working relationship with the Town, subject only to the payment of any accrued earnings or benefits.

10.3 Grievances and Procedures for Correction

A grievance is an employee complaint or concern. It can involve any condition of employment, the application of a rule, regulation, or policy, or any workplace issue or behavior including, but not limited to complaints of sexual harassment, violations of the American Disabilities Act, or the policies and procedures regarding Smoking in the Workplace. No grievances may be brought for personnel actions relating to position classification, compensation, dismissal, demotion, and/or suspension.

Prompt consideration and equitable adjustment of employee grievances is necessary to insure that the work of the Town is accomplished in an efficient and effective manner. It is the intent of the Town to adjust grievances informally whenever possible.

The following steps provide a guideline to the resolution of a grievance by an employee:

- 10.3.1. The employee should informally discuss the grievance with their Supervisor. If the employee is not satisfied with the resolution of the grievance, he or she may bring a written grievance to the Selectboard.
- 10.3.2. If the employee's complaint involves conduct of their Supervisor, the employee may go directly to the Selectboard with the grievance.
- 10.3.3. The Selectboard may investigate any grievance and may interview all parties. The method and manner of conducting a hearing relative to grievances shall be at the discretion of the Selectboard.

10.3.4. The employee, while appearing before the Selectboard or at a hearing, has the right to be represented by counsel and to present any material, witnesses, or evidence helpful to the employee's case. The Town has similar rights.

10.3.5. The Selectboard shall make a decision in writing as to the final resolution of the grievance. The decision of the Selectboard shall be final.

11. APPENDICES

Appendix A - Drug Free Workplace Policy

Appendix B – Drug & Alcohol Testing Policy

Appendix C – Sexual Harassment Policy

Appendix D – Smoke-Free Workplace Policy

Appendix E – Personnel Forms

12. ADOPTION AND AMENDMENT

12.1. Invalidation provision

The invalidity of any provision of these policies and procedures shall not invalidate any other part.

12.2. Amendments

Amendments to the policies and procedures, inclusive of appendices, may be only be adopted by resolution of the Selectboard. Copies of any such amendment of these policies and procedures shall be distributed to all employees, and a copy thereof shall be posted in appropriate locations accessible to all Town employees.

12.3. Adoption

These personnel policies and procedures, inclusive of any appendices attached hereto, are hereby adopted on May 21, 2012 by the Town of Shaftsbury Selectboard. These policies and procedures replace prior personnel policies in their entirety.

_____	Lon McClintock, Chairman	Date: May 21, 2012
_____	Karen Mellinger, Vice Chair	
_____	Carl Korman	
_____	Craig Bruder	
_____	William Obenauer	

12.4. Effective Date

These policies and procedures shall become effective July 1, 2012.

APPENDIX A

DRUG FREE WORKPLACE POLICY

Effective: _____

- 1.1. Purpose and Policy Statement..... p. 27
- 1.2. Definitions.....p. 27
- 1.3. Applicability and General Policy Conditions.....p. 28
- 1.4. Use of Drugsp. 29
- 1.5. Responsibilities p.30
- 1.6. Person Identified to Answer Questions.....p.30

DRUG FREE WORKPLACE POLICY

1.1 Purpose and Policy Statement

An employee who is under the influence of any drug on the job may pose serious safety and health risks not only to the user but also to co-workers and the general public at large. The Town of Shaftsbury is responsible, as an employer, for maintaining safe, efficient working conditions for its employees by providing a drug-free workplace.

Therefore, municipal employees shall not engage in the unlawful manufacture, distribution, possession or use of drugs on the job or on any municipal work site.

1.2 Definitions

Conviction: means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

Criminal Drug Statute: means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use of, or possession of any drug.

"Drug" means a drug listed or classified by the U.S. Drug Enforcement Administration as a Schedule I drug, or its metabolites, and alcohol. It shall also mean other drugs or their metabolites which are likely to cause impairment of the individual on the job, which are: amitriptyline,

amphetamines, barbiturates, benzodiazepines, cannabinoids, cocaine, doxepin, glutethimide, hydromorphone, imipramine, meperidine, methadone, methaqualone, opiates, oxycodone, pentazocine, phenytoin, phencyclidine, phenothiazines, and propoxyphene. In addition, the commissioner of health may, pursuant to chapter 25 of Title 3, add drugs to this list not recognized as being commonly abused and likely to cause impairment of the employee on the job at the time of the passage of this act. 21 V.S.A. Sec. 511(3).

Illegal Drug: any drug which is not legally obtainable, or which is legally obtainable but has not been legally obtained. The term includes prescribed drugs not legally obtained and not being used for prescribed purposes.

Legal Drug: includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose for which they were prescribed or manufactured.

Under the Influence: means, for purposes of this policy, that the employee is noticeably affected by a drug.

Workplace: is defined to include non-municipally owned property which is used in the conduct of municipal business, including property used temporarily for business-related purposes, such as lodging sites rented for seminars, training, or other municipal activities.

1.3 **Applicability and General Policy Conditions**

The following conditions shall be applicable to all employees of the Town of Shaftsbury.

- 1.3.1. Employees shall be required, as a condition of their employment, to abide by the terms and conditions of this Drug-Free Workplace Policy.
- 1.3.2. An employee shall notify their Supervisor or Department Head of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. Failure to do so will result in discipline, up to and including dismissal.
- 1.3.3. If a convicted employee works in a federally funded program, the involved federal grant agency shall be notified of the conviction within ten (10) days of the municipality's receipt of the notice of the conviction.
- 1.3.4. An employee convicted under any criminal drug statute for a violation occurring in the workplace, while on or off duty, or on duty away from the workplace, shall be immediately dismissed for the first offense.
- 1.3.5. In the absence of compelling mitigating circumstances, an employee convicted under any criminal drug statute for a violation not occurring in the workplace and while not on duty shall be subject to immediate dismissal for the first offense if convicted of a felony. If the conviction is not a felony, discipline up to and including dismissal may be imposed, including for the first offense, provided that there is a link between the offense and the job of the employee.

- 1.3.6. Appropriate disciplinary and/or corrective action is to be taken within thirty (30) days after the employer receives notice of a conviction. This, however, is not to be construed to limit the authority of the employer to take such action thereafter. Any disciplinary action must comply with Section 504 of the Rehabilitation Act of 1978, and the Americans with Disabilities Act, if applicable.
- 1.3.7. An employee not convicted under any criminal drug statute, but who engages in the illegal manufacture, distribution, dispensation, possession or use of drugs in any municipal workplace while on or off duty, or on duty away from the workplace, shall be subject to discipline up to and including dismissal for the first occurrence. An employee engaging in such actions while off duty and away from the workplace may be subject to discipline, up to and including dismissal, including for the first offense, provided there is a link to the employee's job and just cause for the discipline.
- 1.3.8. Any employee on municipal premises who appears to be under the influence of, or who possesses illegal or non-medically authorized drugs, or who has used such drugs on municipal premises, may be temporarily relieved from duty pending further investigation.
- 1.3.9. If the use of legal drugs endangers safety, management may (but is not required to) reassign work on a temporary or permanent basis.
- 1.3.10. Employees must observe other work rules established by their employing departments regarding the use, possession or presence of drugs involving their employment.
- 1.3.11. Each employee of the municipality will make a good faith effort to maintain a drug-free workplace and uphold and promote this policy.

1.4 Use of Drugs

- 1.4.1. Legal Drugs: For certain positions, the legal use of a drug can pose a significant risk to the safety of the employee or others. Employees who feel or have been informed that the use of such a drug may present a safety risk, are to report such drug use to their immediate supervisor.
- 1.4.2. Illegal Drugs: The use, sale, purchase, transfer or possession of an illegal drug by an employee while in a municipal facility, while performing municipal business, or while on the job is prohibited. Being under the influence of any illegal drug while conducting municipal business, while on municipal property or in a municipal facility, or while operating any municipal equipment is prohibited. Misuse of prescription drugs is considered to be the illegal use of drugs, this includes both the use of such drugs in a manner inconsistent with the prescribed use and any use of prescription drugs by persons for whom they are not prescribed.

1.5 Responsibilities:

- 1.5.1. Employer: It is the responsibility of each municipal Supervisor or Department Head to advise each employee of this policy; to post the policy annually at each work site; to include a copy of this policy in each new employee's orientation.
- 1.5.2. Employee: It is the responsibility of each employee to be aware of and to abide by this policy.

1.6 Person Identified to Answer Questions:

As part of a continuing policy to ensure fair and equal treatment of its employees and CDL licensed-drivers, the Town understands that employees may have questions and concerns involving its drug and alcohol testing policies.

The Selectboard has designated its Town Administrator as the person to contact with your questions. The Town Administrator may be reached during scheduled office hours at 802-442-4043.

Employees may also contact the Vermont League of Cities and Towns (800-229-9111) and ask for the Drug and Alcohol Testing Program.

APPENDIX B

ALCOHOL AND DRUG TESTING POLICY

Adopted: _____

1.0. Drivers Subject to Alcohol and Drug testing..... p. 32

2.0. Safety Sensitive Functions..... p. 32

3.0. Prohibited Conduct..... p. 33

4.0. When a Driver Must be Tested..... p. 33

5.0. Testing Procedures..... p. 35

6.0. Testing Programs p. 36

7.0. Refusal to Submit to a Test..... p. 37

8.0. Consequences of a Positive Test..... p. 37

9.0 The Effects of Drug and Alcohol on Health, Work
And Personal Life..... p. 38

10.0. Where Can I Go For Help?..... p. 40

Appendix B

ALCOHOL AND DRUG TESTING POLICY

The Federal Motor Carrier Safety Regulations require employers to have a company policy on drug and alcohol abuse. Following is the Town of Shaftsbury's policy that applies only to its employees who are required to have a CDL license for their employment with the Town.

Employers must provide their drivers with information on their drug and alcohol program and the safety regulations regarding the testing for alcohol and drugs. Shown below are the sections of the regulations that require the information material for drivers. The information meets the regulatory requirements when furnished to a driver or applicant before testing.

1.0 Drivers Subject to Alcohol and Drug Testing

The Federal Highway Administration of the United States Department of Transportation requires certain drivers to undergo drug and alcohol testing. The drivers who must be tested are those required to have a Commercial Driver's License (CDL). Drivers are required to have a CDL if they operate a motor vehicle:

- With a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds.
- With a gross vehicle weight rating of 26,001 or more pounds;
- Designed to transport 16 or more passengers; or
- Of any size that is used to transport hazardous material which requires the vehicle to be placarded under the hazardous materials regulations.

There are four exemptions to the testing requirements. These exemptions are listed in the Federal Motor Carrier Safety Regulations.

2.0. Safety Sensitive Functions

A driver shall not use alcohol when performing safety sensitive functions nor perform safety sensitive functions within four hours of using alcohol.

A driver shall not report to duty or remain on-duty when his or her job requires performing safety sensitive functions, if he or she has been using drugs or has tested positive for drug use.

A driver is performing a safety sensitive function when:

- waiting at a terminal, facility, or other property to be dispatched, unless the driver has been relieved from duty by the Town of Shaftsbury;
- performing pre-trip inspections or servicing the motor vehicles;
- Driving the motor vehicle;
- On the vehicle;
- Loading or unloading the vehicle, supervising the loading or unloading, giving receipts for the load, or remaining in readiness to operate the motor vehicle;
- Performing duties and services at an accident scene; or,
- Repairing, obtaining assistance, or remaining in attendance of a disabled vehicle.

It should be noted that the Federal Highway Administration has interpreted this regulation to mean that if a municipal employee has reported to work on a particular day and is not operating a vehicle that day, the CDL Qualified Employee is still subject to the testing requirements under the regulation. There is additional interpretation on this subject; available through FHWA or VLCT-PACIF.

3.0. Prohibited Conduct

A driver shall not:

- report for or remain on duty performing safety-sensitive functions while having a blood alcohol concentration of .04 or greater;
- Use alcohol while performing safety-sensitive functions;
- Abuse drugs;
- Be on duty or operate a commercial motor vehicle while possessing alcohol unless the alcohol is manifested and transported as part of the shipment;
- Perform safety-sensitive functions within four hours of using alcohol;
- Use of alcohol for 8 hours following an accident unless the driver has been given a post-accident test; or
- Refuse to submit to a required alcohol and/or drug test involving post-accident, random, reasonable suspicion, or follow-up testing.

4.0. When a Driver Must be Tested:

The Federal Motor Carrier Safety Regulations are very specific regarding when a driver must submit for a drug and an alcohol test. The drug test will use a urine sample, and the alcohol will use a breath sample.

<u>Type of Test</u>	<u>Alcohol</u>	<u>Drugs</u>
Pre-employment	No	Yes
Random	Yes	Yes
Reasonable Suspicion	Yes	Yes
Post-Accident	Yes	Yes

Return to Duty	Yes*	Yes
Follow-Up ¹	Yes*	Yes
*Required if the test results of the original tests were \geq .04 Blood Alcohol Level.		
1. If required by a substance abuse professional.		

5.0. Testing Procedures

Drug Testing Procedures

The testing program required by the Federal Motor Carrier Regulations is limited to five types: (1) Marijuana, (2) Cocaine, (3) Opiates, (4) Amphetamines, (5) Phencyclidine (PCP).

All drug testing must be done from urine specimens collected under highly controlled conditions. Specimen collection procedures require a designated collection site; security for the collection site; chain of custody documentation; use of authorized personnel; privacy during collection; integrity and identity of the specimen; and transportation to the laboratory.

Driver protection is built into the testing procedures. In order to meet the federal requirements the only laboratories that can be used are those that have been certified by the Federal Government. The Substance Abuse and Mental Health Services Administration certifies laboratories that have met all of the guidelines established by the Department of Health and Human Services.

After the urine specimen has been collected and forwarded to the laboratory, two tests may be performed. The initial test is the immunoassay test. This is a screening test to determine drug usage for the five classes of drugs. The second test is a confirmation test.

The positive levels for the five classes of drug tests are in the table below:

DRUGS	INITIAL TEST LEVELS (ng/ml)	CONFIRMATION TEST LEVELS (ng/ml)
Marijuana	50	15
Cocaine	300	150
Opiates	300	
Morphine	Any level is positive	300
Codeine	Any level is positive	300
Phencyclidine (PCP)	25	25
Amphetamines	1000	500
Methamphetamine		500

*ng/ml means nanograms per milliliter. A nanogram is one billionth of a gram. A milliliter is one thousandth of a liter.

If the results of the initial test are negative, the testing laboratory will advise the Town of Shaftsbury's Medical Review Officer (MRO) that the drug test for the driver was negative. No additional tests on the specimen will be done.

If the results of the initial test are positive, that is, if the results exceed the test levels of any of the five drug classes, a second (confirmation) test is performed. This test is done in an entirely different manner from the initial one. All specimens identified as positive on the initial test must be confirmed using gas chromatography/mass spectrometry techniques.

Only specimens that are confirmed positive on the second or confirmatory test are reported positive to the Medical Review Officer for review and analysis.

A split specimen collection will be done. That is, the urine is divided into two specimen bottles. If the test result of the primary specimen is positive, you may request the Medical Review Officer to send the second (or split) specimen to a different certified lab for testing. The testing of the split specimen will be for the presence of drugs and no cut-off levels. If the result of the test of the split specimen is "negative," the MRO shall cancel the test. If you want the split specimen tested, you must advise the MRO within 72 hours of being notified of the positive test result of the primary specimen. The employee will be responsible for the cost of the second test.

The Town of Shaftsbury needs to keep a record in the driver's file showing the type of test (pre-employment, periodic, etc.); date of collection; location of collection; entity performing the collection; name of the lab; name of the MRO; and the test results.

Alcohol Testing Procedures

Alcohol testing is done by testing breath, because breath is the most easily obtained bodily substance and the results are known within minutes of testing. The test results are displayed and printed in terms of grams of alcohol per 210 liters of breath. The testing device is called an Evidentiary Breath Testing Device (EBT). The EBT is a scientific instrument which determines the concentration of alcohol expressed as "percent by weight." It does this by analyzing a specific volume of expired breath. The weight of alcohol in the breath sample is determined and the quantity of the alcohol converted to its equivalent value in blood. A BAC (blood alcohol concentration) of 0.10 means one tenth of a gram of alcohol per 210 liters of breath. The EBT will print three copies of each test result and the test results are numbered. A test may have two separate parts. The first test is the initial test. If the initial test shows a reading less than 0.02 the test is recorded as "negative". If the initial test is 0.02 or greater a confirmation test will be done. The alcohol testing will be done in a site that affords privacy to the drivers being tested. This site could be a room, van, or a partitioned-off area. Only one breath test will be done at one time. The person giving the test will not leave the testing sight during the test.

The first part of the testing process is to make sure that the EBT is operating properly. In the driver's presence the technician runs an "air blank" test to make sure the EBT is working correctly and the reading is zero. Next, a sealed mouthpiece is opened and placed into the EBT. In order to get a sufficient quantity of deep lung air, the driver is requested to blow into the mouthpiece for at least 6

seconds, or until the EBT indicates that an adequate amount of breath has been obtained. The EBT will immediately read the results of the test and a copy of the printed results will be given to the driver. Printed results are not required for the initial test.

When the initial test results show a reading of 0.02 BAC or greater, a confirmation test is necessary. Before the confirmation test, a 15 minute waiting period will be observed. The purpose of the 15 minutes waiting period is to ensure that the presence of mouth alcohol from recent use of food, tobacco, or hygiene products, does not artificially raise the test result. As the confirmation test is done on the same EBT as the first test, the testing procedures will be the same.

When the confirmation result is different from the initial test, the lower of the two test results will be used to determine the consequences. A breath testing form will be prepared with a copy for the tested driver.

6.0. Testing Programs

6.1. Pre-Employment Testing

Those persons that the Town intends to hire as drivers must be tested for drug use prior to employment. A negative test result must be received before the driver makes the first trip.

6.2. Reasonable Suspicion Testing

Reasonable suspicion means that the Town believes that the driver's appearance or conduct is indicative of use of alcohol and/or drugs. The actions or observations of the driver must occur while the driver is on duty or just preceding the work period or just after the period of the work day. The conduct, appearance, or actions of the driver must be observed by a Supervisor or Town Official. The Supervisor or Town Official must have received training in detection of probable alcohol and/or drug use.

In the case of suspected drug use, the driver must be taken immediately to a collection site and a urine sample must be obtained. The driver's action that causes the Supervisor, Department Head, or Town Official to require a test must be documented and signed by the Supervisor or Town Official within 24 hours after the behavior is noted.

In the case of suspected alcohol use, the test should be done within 2 hours. The Supervisor, Department Head, or Town Official who makes the determination that reasonable suspicion exists shall not conduct the breath alcohol test on the driver.

If two or more hours pass prior to the alcohol test, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If over 8 hours has passed, and the alcohol test has not been administered, then all attempts should cease and a written explanation should be filed as to why the test was not given.

6.3. Random Testing

Random testing ensures that every driver has an equal chance of being tested. Random tests are unannounced.

The regulations provide that a minimum testing rate of 50% is to be used in drug testing. This rate should provide a sufficient deterrent to drug use. For alcohol testing the random rate is 25%.

The rate for random testing is based on a 1 year period. The unannounced tests should be spread reasonably throughout the year. There are no requirements as to how often the random test must be conducted. It could be on a monthly or quarterly basis.

6.4. Post-Accident Testing

A driver must supply a urine specimen for drug testing and a breath test for alcohol following certain types of accidents. If there is a fatality, testing must be done. Also, testing must be done if the accident results in a citation issued by a law enforcement authority for a moving violation.

6.5. Return-to-Duty and Follow-Up Testing

These tests are required when a driver who has violated the prohibited alcohol conduct standards or tested positive for drugs returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least six tests must be conducted in the first 12 months after a driver returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

7.0. Refusal to Submit to a Test

The Federal Motor Carrier Regulations provide that a driver shall not refuse to submit to a post-accident test, reasonable suspicion test, random selection test, or follow-up test.

Said Regulations prohibit the Town of Shaftsbury from permitting a driver who refuses to submit to a required test to perform or continue to perform safety-sensitive functions.

In alcohol testing, the refusal to sign the certification in Step 2 on the form is regarded as a refusal to take the test. Not providing an adequate amount of breath may, under certain conditions, be regarded as a refusal to take a test.

In drug testing, failure to provide sufficient urine may constitute a refusal.

8.0. Consequences of a Positive Test

8.1. Consequences for Drivers who Test 0.04 BAC and Above:

A driver who tests .04 or above

- cannot perform a safety-sensitive function

- will be made aware of resources for solving alcohol and drug problems,
- must be evaluated by a substance abuse professional (SAP)
- comply with treatment recommendations, and
- must undergo a return to duty breath test with a negative test result.

The driver who tested positive will also be subject to unannounced follow-up breath tests for up to 5 years depending on the evaluation of the substance abuse professional.

8.2. Consequences of a Test over 0.02 BAC but Less Than 0.04 BAC

No driver who is found to have a BAC of .02 or greater but less than .04 shall perform safety sensitive functions until the start of the driver's next scheduled work period, but not less than 24 hours following the test.

8.3. Consequences of a positive Drug Test

A driver who tests positive for drugs

- cannot perform a safety-sensitive function,
- must be evaluated by a substance abuse professional
- must comply with treatment recommendations, and
- must undergo a return-to-duty drug test with a negative test result.

9.0. The Effects of Alcohol and Drugs on Health, Work And Personal Life

The hazard of misuse of alcohol and illegal drugs extend far beyond the individual user. Impaired employees endanger themselves, fellow workers, and other users of our highways. Employees with drugs or alcohol in their systems are less productive and more likely to injure themselves or other person in an accident. Alcohol and drug abusing employees increase the costs related to lost productivity, absenteeism, accidents, loss of trained personnel, theft, and treatment and deterrence programs. Also, medical costs are higher and are passed on to the employer in the form of higher health insurance rates. Alcohol and drug abuse costs both the employer and the employee. Alcohol remains the number one abused drug in this country. Alcohol consumption causes a number of changes in behavior. Even low doses can impair judgment and coordination required for driving. Low to moderate doses increase the incidence of a variety of aggressive acts. Moderate to high doses cause marked impairments in higher mental functions, severely altering a person's ability to learn and remember information. Very high doses cause respiratory depression, and death. If combined with other depressant drugs, much lower doses of alcohol will produce the effects just described. Long-term consumption of large quantities of alcohol can lead to permanent damage to vital organs such as brain and the liver.

Signs and Symptoms of An Alcoholic Or Drug Problem

Drugs can show their effects in many different ways. Some of the most noticeable signs of drug abuse are drowsiness, respiratory depression, constricted pupils, nausea, slurred speech, excitement, loss of appetite, poor perception of time and distance, related inhibitions,

disoriented behavior, watery eyes, runny nose, chills and sweats, convulsions, apathy, depression, and the use of drug paraphernalia. Some of the signs and symptoms of alcohol misuse are the odor of alcohol, slurred speech, staggering, tremors, vomiting, cramps, delirium, loss of appetite, using arms for balance, leaning against walls and doorways, swaying while maintaining balance, and confusion.

Multiple substance abuse is abuse of more than one drug, either at the same time or over a period of time and it involves any combination of:

- alcohol
- Prescription drugs
- Over-the-counter drugs
- Illegal drugs

Multiple substance abuse is especially dangerous because different substances interact with each other to produce unexpected effects and dangers.

Multiple substance abuse often begins with abuse of single substance. This may happen because one person begins to rely on a drug, abuse of additional substances becomes more likely. People who abuse one substance are at a high risk for developing dependence and tolerance for other substances.

Methods of Intervention for Suspected Alcohol or Drug Problems

Alcohol and substance abuse is a complex problem calling for specialized supervision and care. Do not help or aid a person who you think has an alcohol or drug abuse problem. Do not make excuses for them. Do not do their work for them. Do not look the other way. The problem is not going to go away. Do not enable the person to continue the alcohol or drug abuse.

Leave the treatment and counseling of a person with an abuse problem to the professionals. The DOT regulations require that the person with a problem be evaluated by a professional, such as a physician, psychologist, or other person with knowledge of abuse and clinical experience in the diagnosis and treatment of alcohol and drug related disorders.

10.0. WHERE CAN I GO FOR HELP?

Alcoholics Anonymous

AA White River Junction 802-295-7611

AA District 21 NH 603-448-6655

VT League of Cities and Towns

Employee Assistance Program 800-649-7915

89 Main Street, Suite 4

Montpelier, VT 05602

Headrest Substance Abuse Services

Nationally Licensed Counselors

Lebanon Area: 603-448-4400 (Help Line)

NH/VT: 800-639-6095

West Central Behavioral Health

(affiliated with Dartmouth-Hitchcock Medical Center)

Lebanon: (603) 448-1101

WRAP

*A program of Health Care & Rehabilitation Specialists of
Southeastern Vermont*

New Appointments and Information: 888-888-5144

49 N. Main Street, White River Jct: 295-3031

APPENDIX C

Sexual Harassment in the Workplace Policy

Adopted: _____

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Attachments - Forms

1. SEXUAL HARASSMENT POLICY

1.1. Prohibited Conduct

It is a violation of these policies, and illegal under state and federal law, for any employee, male or female, to sexually harass another employee. It is a violation of these policies, and illegal under state and federal law, to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of sexual harassment. The Town of Shaftsbury is committed to providing a workplace free from this unlawful conduct. Violations of this policy may result in immediate discharge or other disciplinary action.

1.2 Definition

Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

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

This definition is not intended to modify or alter any legal definition of sexual harassment of sex discrimination.

1.3. Examples

Examples of sexual harassment include, but are not limited to the following, when such acts or behavior come within one of the above definitions:

- 1.3.1. either explicitly or implicitly conditioning any term of employment (e.g. continued employment, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
- 1.3.2. touching or grabbing a sexual part of an employee's body; touching or grabbing any part of an employee's body after that person has indicated, or it is known, that such physical contact is unwelcome;
- 1.3.3. continuing to ask an employee to socialize on or off-duty when that person has indicated she or he is not interested;
- 1.3.4. displaying or transmitting sexually suggestive pictures, objects, cartoons, or posters if it is known or should be known that the behavior is unwelcome;

- 1.3.5. continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;
- 1.3.6. referring to or calling a person a sexualized name if it is known or should be known that the person does not welcome such behavior;
- 1.3.7. regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of a person if it is known or should be known that the person does not welcome such behavior;
- 1.3.8. retaliation of any kind for having filed or supported a complaint of sexual harassment (e.g. ostracizing the person, pressuring the person to drop or not support the complaint, adversely altering that person's duties or work environmental, etc.);
- 1.3.9. derogatory or provoking remarks about or relating to an employee's sex or sexual orientation;
- 1.3.10. harassing acts or behavior directed against a person on the basis of their sex or sexual orientation;
- 1.3.11. off-duty conduct which falls within the above definition and affects the work environment.

1.4. Procedures for Filing a Complaint

- 1.4.1. Duties of Employee: Any employee who believes that they have been the target of sexual harassment, or who believes they have been subjected to retaliation for having brought or supported a complaint of harassment, is encouraged to directly inform the offending person or persons that such conduct is offensive and must stop. If the employee does not wish to communicate directly with the alleged harasser or harassers, or if direct communication has been ineffective, then the person with the complaint is encouraged to report the situation to one of the following:
 - to their Supervisor
 - to Chairman of the Selectboard

The employee should file a complaint as soon as possible after the incident. It is helpful to an investigation if the employee keeps a diary of events and the names of people who witnessed or were told of the harassment, if possible.

- 1.4.2. Obligation to Report: Every Supervisor is responsible for promptly responding to, or reporting, any complaint or suspected acts of harassment. Supervisors should report to the Chairman of the Selectboard. Failure by a Supervisor to appropriately report or address such sexual harassment complaints or suspected acts shall be considered to be in violation of this policy.

2.0. Town Actions Subsequent to Receipt of Complaint

In the event the Town receives a complaint of sexual harassment, or otherwise has reason to believe that sexual harassment is occurring, it will take all necessary steps to ensure that the matter is promptly investigated and addressed. The Town is committed, and required by law, to take action if it learns of potential sexual harassment, even if the aggrieved employee does not wish to formally file a complaint.

Care will be taken to protect the identity of the person with the complaint and of the accused party or parties, except as may be reasonably necessary to successfully complete the investigation. It shall be a violation of this policy for any employee who learns of the investigation or complaint to take any retaliatory action which affects the working environment of any person involved in this investigation.

3.0. Consequences of Credible Complaint

If the allegation of sexual harassment is found to be credible, the Town will take appropriate corrective action. The Town will inform the complaining person and the accused person of the results of the investigation and what actions will be taken to ensure that the harassment will cease and that no retaliation will occur. Any employee, Supervisor, or agent who has been found by the Town to have harassed another employee will be subject to sanctions appropriate to the circumstances, ranging from a verbal warning up to and including dismissal.

If the allegation is not found to be credible, the person with the complaint and the accused person shall be so informed, with appropriate instruction provided to each, including the right of the complainant to contact any of the state or federal agencies identified in this policy notice.

4.0. State or federal investigative agencies:

If the complainant is dissatisfied with the Town's action, or is otherwise interested in doing so, they may file a complaint by writing or calling any of the following state or federal agencies:

Vermont Attorney General's Office, Civil Rights Unit, 109 State Street, Montpelier, VT 05602, tel: (802)828-3171 (voice/TDD). Complaints should be filed within 300 days of the adverse action.

Equal Employment Opportunity Commission, 1 Congress Street, Boston, MA 02114, tel: (617) 565-3200 (voice), (617) 565-3204 (TDD). Complaints must be filed within 300 days of the adverse action.

Vermont Human Rights Commission, 133 State Street, Montpelier, VT 05633-6301, tel: (802) 828-2480 (voice/TDD). (Only if you are employed by a Vermont State agency.) Complaints must be filed within 360 days of the adverse action.

5.0. Investigations by Outside Agencies

Each of these agencies can conduct impartial investigations, facilitate conciliation, and if it finds that there is probable cause or reasonable grounds to believe sexual harassment occurred, it may take the case to court. Although employees are encouraged to file their complaint of sexual harassment through the Town's complaint procedure, any employee is not required to do so before filing a charge with these agencies.

6.0. Right to Hire a Private Attorney

In addition, a complainant has the right to hire a private attorney and to pursue any appropriate legal remedy.

7.0. Where can I get copies of this policy?

A copy of this policy will be provided to every employee, and extra copies will be available from the Town Administrator. Reasonable accommodations will be provided for persons with disabilities who need assistance in filing or pursuing a complaint of harassment, upon advance request.

APPENDIX D
SMOKING IN THE WORKPLACE

Effective: _____

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1.3.	Responsibility for Enforcement	p. 47
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1. SMOKE FREE WORKPLACE

The Town of Shaftsbury understands the importance of providing a smoke-free workplace. Specific policies regarding smoking in the workplace are as follows:

1.1. Prohibited Areas

Smoking is prohibited in the following locations:

A. All public buildings and grounds, which includes, but is not limited to, the following:

- the Municipal Building
- the Town Garage
- the Old School House Building
- Baxter Memorial Library
- Old Town Hall (Historical Society)
- Town Vehicles
- Any other Town Property

B. Any other area the general public has access to or which the general public uses.

1.2. Smoking Breaks

Smoking is permitted during normal breaks only.

1.3 Responsibility for Enforcement

As your employer, the Town is responsible for carrying out the provisions of the smoking policy. We anticipate the cooperation of every employee, and welcome suggestions. Your Department Head and the Selectboard are responsible for enforcement of this policy, and they are the parties to contact with any suggestions, complaints, or concerns in keeping with the Town's policy on Grievances and Procedures for Correction in Section 8.4 of the Personnel Policies.

1.4. For More Information

The State Department of Health may be available to answer questions regarding the interpretation and implementation of smoking laws. The State Chapter of the American Lung Association can provide assistance on the law as well as educational materials on the hazards of smoking and information on smoking cessation classes. For more information, call the State Department of Health at 1-802-863-2700 or the VT Chapter of the American Lung Association at 1-802-863-6817.