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TOWN OF AQUINNAH

PERSONNEL BYLAWS

TOWN OF AQUINNAH PERSONNEL BYLAWS

1.0 General Provisions *(Amended 5/8/2018 ATM)*

1-1 Authorization

This bylaw is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and General Law, Chapter 41, §'s 108A & 108C.

1-2 Purpose

The purpose of this bylaw is to establish a system of personnel administration with policies and procedures governing employment within the Town of Aquinnah, which are consistent with the following merit principles:

- (a) Employment shall be open to all segments of society.
- (b) Recruitment, selection and advancement of personnel shall be based on ability, knowledge, education, and skill under fair and open competition.
- (c) Fair treatment of all applicants and employees shall be guaranteed in all aspects of the personnel system which shall be administered without regard to race, color, religion, sex, **sexual orientation**, national origin, political affiliation, age, handicap, or other non-merit factors and with proper regard for privacy and constitutional rights.
- (d) Retention of employees shall be determined on the basis of their performance. A reasonable effort shall be made to assist employees with inadequate performance. If, following such effort, inadequate performance cannot be corrected, separation shall occur.

1-3 Application

All town departments and positions, including positions funded by a grant or other payment source, shall be subject to the provisions of the bylaw except elected officers and employees covered by contractual agreement.

1-3.1 Personnel Committee *(Amended 2/12/2008 STM)*

The Board of Selectmen shall appoint a Personnel Committee consisting of three members. The term of office of the members of the Personnel Committee shall be for three years; initial appointments to the Committee shall be for the periods of one year, two years and three years respectively. No person employed by the Town of Aquinnah shall be eligible for service on the Personnel Committee. The Committee shall serve without pay. There shall, however, be an employee of the Town who is selected by the employees annually who may sit on the Committee as a non-voting member of the Board. This employee shall bring issues to the Board that are of concern to all Town employees and shall report back to the employees as needed.

The Personnel Committee shall be responsible for the administration of this bylaw. Their responsibilities shall be as follows:

- 1. Ensure that the town maintains an effective personnel system, monitor the effectiveness of the bylaw, procedures and practices, and prepare an annual report;
- 2. Formulate and review the classification plan and the compensation plan;
- 3. Evaluate and classify positions, review requests for reclassifications, and cause a review of all positions in the classification plan at appropriate intervals in accordance with personnel practices;
- 4. Monitor the implementation of the Town's personnel by law and practices;
- 5. Provide advice and assistance to department heads, supervisory personnel and employees on all aspects of personnel management;
- 6. Supervise and maintain a centralized personnel record keeping system;
- 7. Evaluate the effectiveness of forms used in the administration of this bylaw.

1-4 Rules of Interpretation

The bylaw is intended to be in accordance with all applicable state and federal laws and collective bargaining agreements. In the event of inconsistencies with the applicable state or federal law or collective bargaining agreement, the applicable law or agreement shall apply.

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1-5 Definitions (Amended 5/8/2018 ATM)

The following definitions shall apply:

- “town” shall mean the Town of Aquinnah
- “employee” shall mean an employee of the town occupying a position in the classification plan, **including those appointed by an elected official or body.**
- “full-time employee” shall mean an employee working twenty (20) or more hours per week for fifty-two (52) weeks a year, minus authorized leaves provided for in these bylaws. Leaves and benefits shall be based on the average number of hours or days of work such employee is required to perform. An employee working more than one part-time job whose hours total twenty (20) or more per week shall be considered full time.
- “part-time employee” shall mean an employee working less than twenty (20) hours per week for fifty-two (52) weeks a year. Part time employees are not eligible for leaves and benefits as outlined in this bylaw.
- “temporary/seasonal employee” shall mean any employee retained for a fixed period of time not to exceed six (6) calendar months, to replace employees absent for extended periods or conditions caused by increased work load. Temporary/seasonal employees will not be eligible for benefits as outlined in this bylaw.
- “emergency appointment” shall mean a non-competitive appointment to a position for a period of time not to exceed thirty (30) days to prevent stoppage of public business, or to cover an unforeseen emergency
- “appointing authority” shall mean any board or official authorized by General Law or otherwise to appoint employees.
- “department” shall mean any department, board, committee, commission, trustee, or other agency of the town subject to this bylaw
- “department head” shall mean the officer responsible for supervising a department’s operation and activities. A department head may be an appointing authority. In the instance of a department serving under the supervision and control of the selectmen, the officer, board, or other body immediately responsible to the Board of Selectmen for the administration of the department shall be the department head.
- “continuous service” shall mean employment uninterrupted except by authorized leaves.
- “grievance” shall mean a dispute between an employee and supervisor arising from an exercise of administrative discretion. The definition is to include problems that may arise between any employee, a supervisor and an administrative authority.

1-6 Amendment of the Bylaw

This bylaw may be amended at any annual or special town meeting.

2.0 Personnel Records (Amended 5/8/2018 ATM)

2-1 Centralized Record Keeping

The Selectmen shall be responsible for establishing and maintaining personnel records as may be required bylaw, and are necessary for effective personnel management. All employees shall comply with and assist in furnishing records, reports and information as may be requested by the Selectmen. **The Selectmen may delegate any of their record-keeping or time-recording functions or responsibilities to the Town Administrator, including being responsible for maintaining the Personnel Files of all Town Employees.**

2-2 Contents of Records

The Selectmen, **or the Town Administrator if the Selectmen so decide**, shall maintain an individual personnel file for each employee, which may include, but not belimited to the following:

- (a) The employment application;
- (b) A copy of all background investigative reports;
- (c) A copy of any physical examination reports *if applicable*, and health reports, **but in a sealed manila envelope marked “confidential” or stored in a locked, secure filing cabinet in the office of the Town Administrator;**
- (d) A report of all personnel actions reflecting the original appointment, promotion, demotion, reassignment, transfer, separation, or layoff. Results of tests, history of employment and correspondence directly related to the employee’s past employment record, reclassification or change in the employee’s rate of pay or position title, commendations, records of disciplinary action employee’s response to disciplinary

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action, training records, performance evaluation, and other records that may be pertinent to the employee's employment record.

2-3 Access to Records

Personnel records shall be considered confidential and access to records shall, unless circumstances dictate otherwise, be limited to appointing authorities, the Selectmen and the Town Administrator. Any employee may upon request to the Board of Selectmen have access to review their personnel file. The employee's review of their employment record shall be in the presence of an authorized personnel employee, the Town Administrator, or the Selectmen. **Copies of a current or former employee's personnel file will be provided as specified under Massachusetts General Law, chapter 149, § 52C.**

2-4 Release of Information

Unless written authorization is received from an employee, except to verify employment, no information concerning an employee shall be released, unless dictated by law.

3.0 Recruitment and Appointment *(Amended 5/8/2018 ATM)*

3-1 Coverage

All employees. Also independent contractors, as appropriate, based on the scope of responsibilities.
This includes those employees appointed by elected officials.

3-2 Policy

The town shall make every effort to attract and employ qualified persons. Every person regardless of age, race, religious creed, color, national origin, ancestry, sex, **sexual orientation**, gender identity, criminal record (inquiries only), handicap (disability), mental illness, retaliation, sexual harassment, sexual orientation, genetics, or active military; applying for employment in the town will receive equal treatment. The recruitment, selection and promotion of candidates and employees shall be based solely on job related criteria as established in the position descriptions and in accordance with proper personnel practices.

3-3 Recruitment and Appointment *(Amended 5/14/2013 & 5/8/2018 ATM)*

All department heads, in consultation with the Personnel Board and Benefits Administrator, shall be responsible for the recruitment and selection of personnel. The qualifications, classification and salary range for positions shall be established in accordance with the classification and compensation plan.

(a) Notice of Vacancies. Department heads shall, upon the identification of a vacancy or on the authorization of a new position, prepare a job vacancy notice. The job vacancy notice shall include: job title, major duties of the position, qualifications, salary, a closing date for applications, and application instructions.

(b) Posting and Advertisement of Job Vacancy Notices. Notices of vacant positions, not including emergency appointments, shall be posted for fourteen (14) business days on the town hall bulletin board. Job vacancy notices shall be placed in a local newspaper **(in electronic and/or printed format)** at least fourteen (14) days prior to the close of applications **and may also be posted electronically as the department head or Town Administrator see fit.** Advertising should be adequate to ensure that a sufficient number of qualified applicants apply for available vacancies.

(c) Applications. All candidates applying for employment in the town shall complete an official employment application form and return the form to the appointing authority prior to the end of the working day of the closing date specified for the position announcement. Each applicant shall sign the form, and the truth of all statements shall be certified by the applicant's signature. All candidates who complete the application form accurately and honestly shall be entitled to a fair and equitable review of their qualifications.

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(d) Examinations. The appointing authority may require an examination as one part of the selection process. Examinations may be written, oral, practical, physical or any combination thereof and shall be relevant to the requirements of the position. **Medical and/or psychological exams must only be administered following a conditional offer of employment.**

(e) References. A candidate's former employers, supervisors, or other references shall be contacted as part of the selection process. References and other background investigations, at the Town's discretion and as may be related to the position for which the candidate is applying, shall be documented and made part of the applicant's file. All reference checks and investigations shall be completed prior to the offer of employment. The Town shall conduct a background investigation using a Background Checks Procedure, incorporated herein by reference, which may be updated from time to time.

(f) Application Records. The application, documentation of reference checks, and related documents submitted shall be maintained by the department head, **and the Town Administrator**. After filling of a vacancy, all materials shall be turned over to the Selectmen **or Town Administrator**. The Selectmen **or Town Administrator** shall maintain application records for the period required by law. Appointing authorities, department heads and the Selectman **and Town Administrator** shall, to the extent possible, maintain the confidentiality of any application.

3-4 Appointment

All appointments shall be made in writing by the appointing authority and shall be subject to the limitation of its appropriation. The written notice of appointment shall include the salary, the starting dates, and appropriate additional information. **A copy of all appointments will be provided immediately to the Town Administrator.**

3-5 Failure to Report

An applicant, who accepts an appointment and fails to report within three (3) days after the date set by the appointing authority, shall be deemed to have declined the appointment and the offer of employment shall be withdrawn.

4.0 Orientation and Probation *(Amended 5/8/2018 ATM)*

Coverage

4-1 All employees, **This includes those employees appointed by elected officials**

4-2 Policy

Appointing authorities shall inform new employees of their rights, responsibilities, duties and obligations. Performance of all new employees must meet acceptable work standards.

4-3 Orientation

Appointing authorities or their designee shall:

- (a) Notify the new employee of a date, time and designated location for starting work;
- (b) Thoroughly explain all the benefits and options the employee is entitled to and shall assist the employee with completion of appropriate forms. The appointing authority shall provide the employee with a copy of this personnel bylaw.
- (c) Provide on-site training and orientation regarding specific rules, regulations, policies and procedures of the employee's assigned department including the safety policies and procedures.

4-4 Probationary Period

All newly appointed and promoted employees shall be required to successfully complete a probationary period to begin immediately upon the employee's starting date or promotion and to continue for a six (6) month period, **unless otherwise covered by state law, such as for police officers where MGL c. 41, § 133 specifies a 1-year probationary period**, which may be extended by the number of days the employee may be absent from

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work. The probationary period shall be utilized to help the new and promoted employees achieve effective performance standards. The probationary period shall be used by the appointing authority to observe and evaluate the employee's conduct and work habits. Upon expiration of the probationary period, the appointing authority shall notify the Selectmen in writing that:

- (a) The employee's performance meets satisfactory standards and the individual will be retained in the position or;
- (b) The employee's performance, due to extenuating circumstances, requires additional observation and that the probationary period will be extended an additional three (3) months or;
- (c) The employee's performance or conduct was unsatisfactory, stating the specific reasons, and that removal will occur;
- (d) The employee may be removed by an appointing authority if it is revealed that the employee intentionally falsified information relating to the application for employment, was unable or unwilling to perform their required duties, or displayed conduct, habits, or undependability which did not merit continuing the employee in the position. The employee and the Selectmen shall be notified in writing of the reasons for the termination and the effective date of the action.

5.0 Classification Plan *(Amended 5/09/17 ATM & 5/08/18 ATM)*

5-1 Coverage

All employees. **This includes those appointed by elected officials.**

5-2 Policy

The policy of the town is to establish and provide a uniform system for classifying all positions and to establish proper relationships between positions based on the level of responsibilities assumed and the minimum qualifications required to perform the job so that the same schedule of compensation may be applied to each class ensuring equal pay for equal work.

5-3 Contents of the Classification Plan

The classification plan shall consist of the following:

- (a) Position Descriptions. Descriptions for positions which are similar in duties, degree of difficulty and level of responsibility so that each position in the class can:
 - 1. Be given the same job title.
 - 2. Require essentially the same training and experience.
 - 3. Be filled by substantially the same methods of selection.
 - 4. Be of the same relative value and therefore deserving of the same range of compensation.

Each position shall have a written description. The description shall consist of a statement describing the nature of the work, job responsibilities, essential functions, the required education, minimum knowledge, skills, training, abilities, experience and any necessary special qualifications. Position descriptions are intended to be representative of the positions in a class and provide illustrations of the type of work performed, and do not necessarily include all duties performed. Position descriptions are not intended to be restrictive. Qualification statements in each position description establish desirable minimum requirements that should be met by a person before appointment, transfer, or promotion to a position in the class.

(b) Position Titles. The title of each class of position shall be the official title of every position allocated to the class, and shall be used for administrative purposes such as payroll, budget, financial and personnel forms and records. No person shall be appointed or promoted to any position in the town under a title not included in the classification plan. No employment or promotion hereunder shall become effective until such time as the appropriation or other monies out of which the compensation is to be paid shall be adequate.

(c) Change in position description or title. The overseeing board shall submit a new position description and any change in position title to the Selectmen for evaluation and classification.

(d) No employee of the town shall hold two or more different town jobs, the performance or scheduling of which may be in conflict.

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5-4 Administration of the Classification Plan

The Personnel Committee shall have responsibility for the administration of the classification plan and shall be authorized to:

- (a) Complete studies of new positions and make allocations to existing classes, establish a new class of positions, or delete a class of positions;
- (b) Provide for studies of existing positions when there has been substantial change in the duties and responsibilities which justify consideration of possible reclassification;
- (c) Conduct periodic studies to insure the classification plan remains uniform and current and;
- (d) Develop procedures to determine the proper classification of each position and classify positions.

5-5 Classification of New Positions

Appointing authorities proposing the creation of new positions shall provide the Personnel Committee with a description of the duties, skills, knowledge, abilities, and the other work performance requirements of a proposed position in sufficient detail to enable the Personnel Committee to appropriately classify the position.

5-6 Reclassifications of Positions and Periodic Reviews

Positions may not be reclassified without the overseeing board submitting a new position description and any change in position title to the Personnel Committee for evaluation. The Personnel Committee shall at three-year intervals review all positions subject to the classification plan in accordance with proper personnel practices.

5-7 Classification Plan

The classification plan is appended to this bylaw and shall be considered a part of this bylaw.

6.0 Compensation Plan *(Amended 5/09/17 ATM & 5/08/18 ATM)*

6-1 Coverage

All employees. **This includes those appointed by elected officials.**

6-2 Policy

The Personnel Committee shall annually establish a compensation plan. The compensation plan shall be related to the classification plan and shall consider the following:

- (a) Relative responsibilities between various classes;
- (b) Wage rates for comparative type of work;
- (c) Economic conditions in the labor market;
- (d) Fiscal policies of the town;
- (e) Ratified labor agreements.

Employees shall be paid in accordance with the rates in the compensation plan.

6-3 Starting Rates for New Appointments

Persons appointed to positions shall be paid at the minimum rate, provided the appointing authority may recommend compensation at a higher rate on the basis of exceptional qualifications or a lack of qualified applicants available at the minimum rate. Such a request shall be made to the Personnel Committee in writing by the appointing authority at the time of employment or at the expiration of the probationary period. The Personnel Committee shall approve or disapprove the request.

6-4 Performance Evaluations *(Amended 5/14/2013 ATM)*

All employees, regardless of their positions in the classification plan, shall have an annual written performance evaluation, which shall be prepared by the department head or appointing authority on such form as is approved by the Personnel Committee. The written performance evaluation shall be done by December 31st. The report, along with the recommendation or denial of a step increase by the department head or appointing authority, shall be approved by the Board of Selectmen no later than March 31st. The employee's new rate, if granted, will become effective at the beginning of the next fiscal year. Failure to complete a performance evaluation in a timely fashion will not entitle an employee any rights to additional compensation.

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6-5 Promotion

An employee who receives a promotion shall be compensated at the rate of pay that is closest to but greater than the employee's current rate of pay or at a step that the appointing authority, subject to approval of the Selectmen, believes the employee's qualifications and performance warrant. **Reclassifications will not require compliance with this paragraph.**

6-6 Working Out of Grade

Employees working out of grade or temporarily assigned to a higher grade shall, after actively working two consecutive weeks in said higher grade, be entitled to receive the salary of the higher grade at one step or at the step higher and closest to the employee's current wage, whichever is higher.

The two weeks shall be exclusive of sick leave or vacation leave. An employee shall have the right, without fear of discrimination, to refuse permanent assignment to a higher job grade.

6-7 Notice of Employment

Appointing authorities shall notify the Selectmen **and Town Administrator** of all persons employed, the classification, and the rate of compensation (see section 3-4).

6-8 Salary Rates Above Maximum

Any salary rate, which is above maximum rate for a job, as established by the compensation plan, shall be deemed to be a personal rate, and apply only to the incumbent. When such incumbent leaves the employ of the town or is transferred to another job, the personal rate shall disappear and no other employee assigned to, or hired for, such job shall advance beyond the maximum of the job.

6-9 Office Work Hours (Amended 11/29/16 STM)

Any employee working in the Town Municipal Campus with an office set up to serve the public, must post and maintain office hours on a regular basis Monday – Friday between 9:00 am and 5:00 pm, holidays excluded. Any daily absence must be covered by personal, sick and/or vacation time with notification of such given to their immediate supervisor and the Town Administrator.

6-10 Payroll Procedures (Added 5/8/2018 ATM)

The Board of Selectmen may establish procedures to be followed by all department heads for the recording and submission of time records in conjunction with payroll warrants as a condition of any Town employee being paid. This may include having the Town Administrator receive and review all time sheets and supporting documentation to allow verification of eligibility for payment.

7.0 Overtime (Amended 5/8/2018 ATM)

7-1 Coverage

All employees. **This includes those appointed by elected officials.**

7-2 Policy

The town shall pay overtime in conformance with the Fair Labor Standards Act (FLSA). Department heads shall be responsible for the control and authorization of overtime. Overtime shall be authorized only in emergencies at the discretion of a department head. Employees shall be compensated for overtime at an hourly rate of time and one half for all hours worked over 40 in a week. With the approval of the Department Head, an employee may elect compensatory time off at a rate of time and a half for all hours worked over 40 in a week. **(or any applicable Overtime Threshold).**

Department heads shall be deemed to have a continuous responsibility to the public and shall not receive compensation for overtime. If extraordinary circumstances warrant it, the appointing authority may, with the permission of the Selectmen, authorize compensation.

It is the responsibility of the department head to control and minimize overtime. It shall be authorized by **the department head** in advance and shall be kept within the appropriated funds.

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8.0 Holidays (*Amended 5/9/17 ATM, 5/8/2018 ATM & 4/26/2023 STM*)

8.1 Coverage

Full-time employees. **This includes those full-time employees appointed by elected officials.**

8-2 Recognized Holidays

The following holidays shall be recognized by the town on the day on which they are legally observed by the Commonwealth of Massachusetts, and on these days employees, without loss of pay, shall be excused from all duty except in cases where the appointing authority determines that the employee is required to maintain essential town services. Holidays which fall on a Saturday will be observed on the preceding Friday and those falling on a Sunday will be observed on the following Monday. The following holidays are recognized: New Year's Day, Martin Luther King Day, President's Day, Patriots' Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Indigenous Peoples Day, Cranberry Day, Veteran's Day, Thanksgiving Day, Christmas Day. In addition to the state recognized holidays, the Friday after Thanksgiving will be considered a holiday and Christmas Eve, if occurring Monday through Friday will be a 1/2 day holiday.

8-3 Terms of Holiday Pay

Holiday Pay shall be granted as follows:

- (a) An employee paid on an hourly basis shall receive one day's pay at the regular rate of the employee based on the number of hours regularly scheduled on the day on which the designated holiday occurs and;
- (b) Holiday pay shall be granted to an employee provided that the employee shall have worked on the employee's last scheduled working day prior to such holiday, the next regularly scheduled working day following such holiday, or was in such full pay status on such preceding and following days in accordance with other provisions of these regulations, or was appropriately excused;
- (c) An employee working on a paid holiday shall receive in addition to holiday pay, time and one half based on their regular hourly rate;
- (d) In the event of an emergency or inadequate manpower, a department head who must work on a paid holiday, upon approval of the appointing authority, shall receive in addition to regular earnings, straight time based on their calculated hourly rate.

9.0 Vacation Leave (*Amended 5/8/2018 ATM*)

Coverage

9-1 Full time employees

This includes those full-time employees appointed by elected officials.

9-2 Vacation Granted

Vacation pay shall be granted as follows:

- (a) An employee in continuous service shall be granted two (2) work weeks (5 work days, 5 vacation days; 4 work days, 4 vacation days, etc.) of vacation with pay after completion of one year of service but less than five years of continuous service;
- (b) An employee in continuous service shall be granted three (3) work weeks (5 work days, 5 vacation days; 4 work days, 4 vacation days, etc.) of vacation with pay after completion of five (5) years of service but less than ten years of continuous service;
- (c) An employee in continuous service shall be granted four (4) work weeks (5 work days, 5 vacation days; 4 work days, 4 vacation days, etc.) of vacation with pay after completion of ten years of continuous service.

9-3 Scheduling (*Amended 5/14/2013 ATM*)

Vacation leave can be taken in the same year it is accrued after the 1st six months in new employment. Yearly vacation time not so utilized shall expire at the end of the fiscal year unless extended for a specified period of time by the appointing authority.

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9-4 Termination

Upon termination, an employee or the beneficiary of the deceased employee shall be paid an amount equal to the vacation allowance as earned and not granted in the vacation year prior to such termination. In addition, payment shall be made for that portion of the vacation allowance earned in the vacation year during which termination occurred up to the time of the employee's separation from the payroll with the following exceptions:

- (a) The employee had not completed his/her probationary period;
- (b) The employee failed to give proper notice of termination;
- (c) The employee was terminated due to delinquency or misconduct on the part of the employee.

9-5 Other Uses of Vacation Leave

At the discretion of the appointing authority and the approval of the Selectmen, sick leave used in excess of that authorized may be charged to **available** vacation leave. Notice of such a decision shall be provided to the Selectmen.

9-6 Additional Vacation Days

An employee shall be granted another day of vacation, if while on vacation leave a designated holiday occurs.

9-7 Working on Vacation

With the approval of the department head or appointing authority, an employee may elect to work up to half of the earned vacation time at regular compensation. Exceptions may be granted by the Selectmen.

10.0 Sick Leave *(Amended 5/12/15 ATM & 5/8/2018 ATM)*

10-1 Coverage

Permanent full-time employees **This includes those full-time employees appointed by elected officials.**

Effective July 1, 2015, permanent part-time employees shall be eligible for paid sick leave. Temporary and seasonal employees shall not be eligible for paid sick leave.

10-2 Granting of Sick Leave

Accrual of sick leave for employees who have completed the required probationary period shall be at the rate of one day each month of service completed. Upon completion of the probationary period an employee shall be credited with six (6) days of sick leave. Permanent part-time employees, in the employ of the Town for six (6) months or longer as of July 1, 2015, shall be granted an available balance of six (6) paid sick leave days. For permanent part-time employees who have not completed a probationary period as of July 1, 2015, the available balance will be pro-rated.

For permanent full-time and part-time employees, sick leave accrual day shall be based on the average number of hours of work such employee performs in an average day of service.

Such paid leave accrual day shall be determined by dividing the average, regular weekly schedule of work hours by the regular work days for an employee. For example, a 20-hour a week employee, who maintains a work schedule of 4 days a week, would earn a paid leave day equal to 5 hours per month.

If a permanent part-time employee's status changes to a permanent full-time, as may be determined by the Town, any accumulated sick leave balance shall be retained by such employee, and used for compensated absences payout purposes upon resignation or retirement, as defined in Sec. 10.5.2.

10-3 Use of Sick Leave

Sick leave shall be granted to an employee only when the employee is incapacitated from the performance of duties by own physical or mental illness, injury or medical condition that requires home care, professional medical diagnosis or care, or preventative medical care; including pregnancy, injury or a quarantine by public health authorities. Self-imposed injury, illness or disability resulting from the use of alcohol or drugs, may not be considered proper claim for leave under this section, except in the case of an employee under the care of a physician or participating in a recognized treatment or rehabilitation program. An employee may also use paid sick leave if he or she has to miss

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work to attend the employee's routine medical appointment or to address the psychological, physical, or legal effects of domestic violence.

10-4 Use of Sick Leave – Family

The department head or appointing authority may allow paid time off not to exceed seven (7) days to care for the employee's child, spouse, parent, or a parent of a spouse, who is suffering from a physical or mental illness, injury, or medical condition that requires home care, professional medical diagnosis or care, or preventative medical care; or to attend a routine medical appointment for the employee's child, spouse, parent, or parent of spouse. The seven (7) days need not be consecutive calendar days; they are charged to sick leave and are allowed on an annual basis. They may not be accumulated if not used. Immediate family for the purpose of this section shall, except in unusual circumstances, include husband, wife, domestic partner, children, parent, brothers or sisters.

10-5 Accrual of Sick Leave (Amended 5/10/2011 ATM & 5/12/15 ATM)

10-5.1 Year-round benefits-eligible employees shall accrue sick leave at the rate of twelve (12) days per year.

Leave shall be earned at the rate of one (1) day per month, as defined in Sec. 10.2.

Unused sick leave may accumulate from year to year to a maximum accumulation of one hundred twenty (120) days. A day of earned sick leave shall be equal to an employee's current average daily number of hours worked in a work week, as defined in Sec. 10.2.

10.5.2 If a permanent full-time employee who chooses to resign or retire has accumulated sick leave; has worked for the Town for at least five (5) years; and is in good standing, he or she shall be compensated for accrued sick leave at the following rates:

5 – 10 years of continuous employment – 25% of up to 120 days;

More than 10 years of continuous employment – 50% of up to 120 days.

Permanent part-time employees shall not be compensated for accrued sick leave at the time of resignation or retirement. Employees who were terminated by the Town involuntarily shall not receive compensation for accumulated and unused sick leave.

10-6 Notification

Sick leave will commence on the date and time that notification of the employee's sickness, injury or quarantining is given to that department head by the employee or the employee's family or physician. Notification shall be made to the employee's supervisor, if possible, prior to starting time but no later than one hour after starting time.

10-7 Certification of Illness

A department head may request a physician's certificate of illness after three days absence or after a series of repeated absences during the year. No allowance for such leave may be granted to an employee unless an adequate register, in such form as may be approved by the Selectmen, is maintained by the employee's department head or appointing authority. Such register shall show records of sick leave, both accrued and granted, for the employee.

Copies of such a register shall be provided to the employee and submitted to the Selectmen and Treasurer at least quarterly. Department heads or appointing authorities shall clearly indicate on their payrolls all payments for such sick leave, and are responsible for the control of such sick leave in their department. Sick leave, which is inadequately documented, may be revoked by the Selectmen.

10-8 Worker's Compensation

At the discretion of the employee, and with Personnel Committee approval, accumulated sick leave, vacation time and overtime may be used to compensate for the difference between the worker's compensation benefit and

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the employee's normal base pay.

11.0 Bereavement Leave *(Amended 5/12/15 ATM & 5/8/18 ATM)*

11.1 Purpose

The Bereavement Leave Policy establishes uniform guidelines for providing paid time off to employees for absences related to the death of family members and fellow employees or retirees of the Town.

11.2 Coverage

All full-time, active employees are eligible for benefits under this policy. According with Sec. 1.5(c), this leave shall be based on the average number of hours or days of work such employee is required to perform. **This includes those full-time employees appointed by elected officials.**

11.3 Policy

Paid bereavement leave will be granted according to the following schedule:

- (a) Employees are allowed up to five (5) consecutive days off from regularly scheduled duty with regular pay in the event of the death of the employee's family member, as defined in Sec. 11-5 of the By-Law. To be eligible for paid bereavement leave, the employee generally must attend the funeral of the deceased family member.
- (b) Employees are allowed up to four (4) hours of bereavement leave to attend the funeral of a fellow regular employee or retiree of the Town, provided such absence from duty will not interfere with normal operations of the Town.

11.4 Procedure

- (a) An employee who wishes to take time off due to the death of a family member or fellow employee or retiree of the Town should notify his or her supervisor immediately.
- (b) An employee may be required by the Town to provide satisfactory evidence of the death in the family.
- (c) Bereavement leave will normally be granted unless there are unusual business needs or staffing requirements. An employee may, with his or her supervisor's approval, use any available vacation or personal leave for additional time off as necessary. The approval of such additional time will be subject to the restrictions in Sec. 11.4(c).
- (d) Bereavement pay is calculated based on the base pay rate at the time of absence, and it will not include any special forms of compensation, such as incentives, commissions, bonuses, overtime or shift differentials.

11.5 Definition of Family Members

For the purposes of bereavement leave in Sec. 11 of the By-Law, the individuals with the following relationships to the employee are considered family members or immediate relatives as defined in the Aquinnah Personnel By-Laws, Appendix A.

12.0 Military Leave *(Amended 5/8/2018 ATM)*

12-1 Coverage

Full-time employees. **This includes those full-time employees appointed by elected officials.**

12-2 Policy

Employees called for a temporary period of training in the military forces of the nation or the Commonwealth shall be paid for a period of up to fifteen (15) days an amount equal to the difference between an employee's normal

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straight time compensation and the amount paid for military training. Employees shall remain entitled to vacation leave.

13.0 Jury Leave

13-1 Coverage

Full-time employees. **This includes those full-time employees appointed by elected officials.**

13-2 Policy

Employees called for jury duty shall be paid for the amount equal to the difference between compensation paid for the normal working period and the amount paid by the court excluding allowance for travel.

14.0 Maternity/Paternity Leave

14-1 Coverage

Full-time employees. **This includes those full-time employees appointed by elected officials.**

14-2 Policy

After completion of the probationary period, maternity/paternity leaves of absence without pay shall be granted to an employee for a period not to exceed eight (8) weeks for the purpose of giving birth to a child or adoption of a child; or for further assisting with the same. The employee shall notify the appointing authority at least two weeks prior to the anticipated date of departure and of the intention to return. The employee shall be restored to the same or similar position with the same status, pay, and seniority, as of the date of the leave.

15.0 Personal Days

15-1 Coverage

Full-time employees. **This includes those full-time employees appointed by elected officials.**

15-2 Policy

Each full-time employee, after the completion of one year's service, shall be allowed up to three (3) days of leave with full pay during each year for the purpose of transacting or attending to personal, legal, business or family matters which require absence during regular working hours. Leave under this agreement shall be available for reasons of hardship or other pressing needs and not merely for personal convenience. **This leave includes but is not in addition to leave under the Massachusetts Small Necessities Leave Act.**

16.0 Leave of Absence

16-1 Coverage

All part-time or full-time employees with at least one year of continuous service.

This includes those full-time or part-time employees appointed by elected officials.

16-2 Definition

For the purpose of this section, "leave of absence" shall mean any leave not described in sections 10.0 through 16.0 of this bylaw.

16-3 Policy

After exhausting vacation leave, personal days and compensatory time, an employee may be granted a leave of absence without pay by his or her appointing authority with the approval of the Selectmen. Employees shall, after thirty (30) days of leave, be responsible for full payment of insurance premiums. Leaves of two (2) months duration may be considered a break in employment by the Selectmen, in which case the employee shall have the status of a new employee if a return of service to the town occurs. A full time employee on a leave of absence without pay shall not accrue sick leave, vacation leave or be eligible for holiday pay.

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17.0 Longevity Pay (Amended 5/9/2017 ATM & 5/8/18 ATM)

17-1 Coverage

Full-time employees who have completed 10 years of service regardless of step placement in the classification plan. Longevity pay shall be paid to an eligible employee on their anniversary date

This includes those full-time employees appointed by elected officials.

17-2 Policy

Fulltime employees hired prior to June 30, 2007 are grandfathered to receive Longevity pay as follows:

- (a) After ten (10) full years of continuous service to the Town, an employee shall be paid an additional 2% of their gross annual salary per year;
- (b) After fifteen (15) full years of continuous service to the Town, an employee shall be paid an additional 3% of their gross annual salary per year;
- (c) After twenty (20) full years of continuous service to the Town, an employee shall be paid an additional 4% of their gross annual salary per year;

Full time employees hired after July 1st, 2007 will receive Longevity pay as follows:

- (a) After ten (10) full years of continuous service to the Town, an employee shall be paid an additional 1% of their gross annual salary per year;
- (b) After fifteen (15) full years of continuous service to the Town, an employee shall be paid an additional 2% of their gross annual salary per year;
- (c) After twenty (20) full years of continuous service to the Town, an employee shall be paid an additional 3% of their gross annual salary per year;

17-3 Payment Longevity pay shall be paid to an employee on their anniversary date.

18.0 Sexual Harassment Policy (Amended 5/8/2018 ATM)

18-1 Coverage

All employees. **This includes those employees appointed by elected officials.**

18-2 Policy

No employee shall exercise responsibilities or authority in such a manner as to make submission to unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature a term or condition of employment within the town. No employee shall conduct himself or herself with respect to verbal or physical behavior of a sexual nature where such conduct has the effect of interfering with an individual's work or performance or creating an intimidating, hostile or offensive environment.

19.0 Safety

19-1 Coverage

All employees. **This includes those employees appointed by elected officials.**

19-2 Policy

The town shall provide and maintain safe working conditions.

19-3 Procedures

As appropriate, employees **may** be provided with necessary safety equipment and clothing. Employees shall be required to wear and use safety equipment at all time while undertaking the work for which the equipment is furnished. There shall be no exceptions.

19-4 Responsibilities of Department Heads and Employees

The following responsibilities shall apply:

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(a) Department heads and supervisors shall **be mindful of the value of** safe working areas; **They shall** recommend correction of deficiencies noted in work procedures, facilities, safety clothing or equipment, or attitudes; insure the availability and utilization of appropriate protective clothing and equipment; observe working conditions and field procedures to prevent possible safety hazards and investigate and report all accidents promptly.

(b) Each employee shall observe all safety rules, operating procedures, facilities, safety clothing or equipment; report unsafe areas, conditions, or other safety problems; report all accidents promptly to the appropriate supervisor.

19-5 Disciplinary Action

Employees violating safety rules, practices and policies may be subject to disciplinary action.

20.0 Standards of Conduct (Amended 5/8/2018 ATM)

20-1 Coverage

All employees. **This includes those employees appointed by elected officials.**

20-2 Policy

Town employees shall avoid any action which creates the impression of using public office for private gain, giving preferential treatment to any person or group, or losing impartiality in conducting town business. Employees are expected to conduct themselves in a manner, which in no way discredits the town, public officials or fellow employees.

21.0 Disciplinary Action

21-1 Coverage

All employees. **This includes those employees appointed by elected officials.**

21-2 Policy

All employees are responsible for observing regulations necessary for proper operation of town departments. Disciplinary action shall be the responsibility of supervisors, department heads, and appointing authorities who shall exercise their responsibility with discretion and with concern for the employee.

21-3 Reasons for Disciplinary Action

Disciplinary action may be initiated for failure of an employee to fulfill responsibilities as an employee. The following shall be sufficient cause for disciplinary action:

- (a) Incompetence or inefficiency in performing assigned duties;
- (b) Inability to perform one or more critical elements of the position.
- (c) Refusal to perform a reasonable amount of work or violation of any reasonable official order or failure to carry out any lawful and reasonable directions made by a proper supervisor;
- (d) Habitual tardiness or absence from duty;
- (e) Falsification of time sheets;
- (f) Use or possession of illegal narcotics or alcohol while on duty;
- (g) Misuse or unauthorized use of town property;
- (h) Fraud in securing employment;
- (i) Disclosure of confidential information;
- (j) Abuse of sick leave or absence without leave;
- (k) Violation of safety rules, practices and policies;
- (l) Engaging in sexual harassment;
- (m) Violation of standards of conduct;
- (n) Any situation or instance of such seriousness that disciplinary action is warranted.

21-4 Disciplinary Procedures

Department Heads and supervisors shall be responsible for enforcing rules and regulations. Disciplinary action

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shall include only the following:

- (a) Oral reprimand – The department head observing action of an employee warranting disciplinary action may issue an oral warning. The oral warning shall be presented with regard for minimizing embarrassment to the employee and shall include a statement concerning the purpose of the warning. An oral reprimand shall be noted in the employee's personnel file.
- (b) Written reprimand – The department head shall issue a written warning including the reasons for the warning and an offer of assistance on the part of the department head in correcting the unsatisfactory situation. A copy of the written warning shall be placed in the employee's personnel file, and carry a specified period in which the behavior shall be improved. The written warning shall be provided to the employee.
- (c) Disciplinary probation – An employee is placed on disciplinary probation for a period of up to three (3) months by the department head or appointing authority. A written notice of such probationary period shall be provided to the employee. A copy of such notice shall be included in the employee's personnel file.
- (d) Suspension – With sufficient cause, a department head may suspend an employee without pay for a period or periods not to exceed twenty (20) days in any twelve (12) month period. **unless a longer period is agreed to by the employee.** Suspension may be in lieu of oral reprimand, written reprimand, and disciplinary probation and may be effective immediately. Within 48 hours of the effective date of the suspension the employee shall be provided with a written notice stating the reasons for and the length of the suspension. A copy of such notice shall be provided to the Selectmen **and Town Administrator**
- (e) Discharge – A department head may discharge an employee for unsatisfactory job performance, violation of town regulations, or after exhausting other disciplinary procedures. The department head shall provide the employee with a written notice stating the reason or reasons for the discharge and the effective date of the discharge. A copy of such notice shall be provided to the Selectmen **and Town Administrator**

The severity of an infraction shall dictate the level of disciplinary action imposed.

22.0 Termination of Employment (Amended 5/8/2018 ATM)

22-1 Coverage

All employees. **This includes those employees appointed by elected officials.**

22-2 Policy

To maintain a fair and equitable policy as it pertains to termination.

22-3 Classifications

The following types of termination shall apply:

- (a) Layoffs/Furlough/Military Service. Employees will be eligible to receive all vacation pay as outlined in 9-2(a).
- (b) Resignation. Employees are expected to provide the town with a written notice of resignation at least two (2) weeks prior to the last day worked. The two (2) week period shall be exclusive of sick or vacation leave. The appointing authority, with the approval of the Selectmen, may waive the need to work any or all of the two (2) week period. If the two (2) week period is waived, the employee will still be paid at their regular rate of pay for that time. Employees are eligible to receive all vacation pay as outlined in 9-2(a);
- (c) No call, no show/resignation with less than 2 weeks notice. An employee will be considered to have resigned his/her position if they fail to report to work or call in for a period of three (3) consecutive work days. Employees will be eligible for only vacation earned but not granted in the prior year as outlined in 9-2(a);
- (d) Termination for cause. Employees will be eligible only for vacation earned but not granted in the prior year.

22-4 Evaluation is required at separation

Satisfactory valuation at separation is required for rehire, with the right to appeal to the Selectmen.

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22-5 Rehire/Recall

The following conditions shall apply:

- (a) Recall. If an employee is recalled within twelve (12) months from his termination date, he/she will be reinstated with no loss of seniority with regards to benefits, longevity pay and personnel records;
- (b) Military Discharge. If application is made within 90 days of discharge, the employee's original hire date will be reinstated with no loss of seniority with regards to benefits, longevity pay and personnel records.
- (c) Rehire. If an employee is rehired within one year of termination, after completion of a period equal to the length of termination, or the probationary period, whichever is longer, the employee will be reinstated with no loss of seniority with regards to benefits, longevity pay and personnel records.
- (d) Vacation payment made to such employee for accrued vacation during the year which termination occurred will be considered time granted upon reinstatement.

23.0 **Grievance Procedure** (*Amended 11/29/16 STM & Amended 5/8/2018 ATM*)

23-1 Coverage

All employees. **This includes those employees appointed by elected officials.**

23-2 Policy

Any employee, who is aggrieved by a decision of or by the alleged misconduct of any Town authority, elected or appointed, shall immediately report the incident to his or her supervisor. If the incident involves the supervisor, an initial report shall be made directly to the Town Administrator. If the incident involves the Town Administrator, an initial report shall be made directly to the Personnel Board.

*Employees shall have the right to confer with the Selectmen **or Town Administrator** on any matter which is covered by personnel policies. The Selectmen shall have the power to adjust grievances, which do not require the expenditure of funds in excess of available appropriations. **The Selectmen may delegate this function to the Town Administrator.***

23-3 Grievance Procedure

Grievances shall relate to improper application of the personnel bylaw or disciplinary procedures.

Grievances shall be resolved in the following manner:

- (a) Employees are encouraged to discuss any matter of dispute with a department head **and/or the Town Administrator** in a mutual effort to resolve any problems or misunderstanding. Failing to resolve any grievance in an informal manner, an aggrieved employee may present a grievance in writing to a department head, **with a copy to the Town Administrator**, along with all the pertinent information relative to the grievance and indicating the relief that is desired. The department head shall **confer with the Town Administrator and the department head shall** within seven (7) days of receipt of the grievance provide an answer in writing to the aggrieved employee; a copy of which shall be provided to the Selectmen.*
- (b) If the grievance has not been resolved as provided in (a) above, the aggrieved employee may within seven (7) days after receipt of the written answer from the department head or within fifteen (15) days after presentation of the grievance to the department head, present the grievance in writing to the Selectmen. The Selectmen shall schedule a hearing on the grievance and shall answer the aggrieved within twenty (20) days after its receipt. The department head and employee shall have the right to attend such hearing. **The Selectmen may delegate this duty to the Town Administrator.***

The supervisor or affected employee may petition the Personnel Board to hold a grievance meeting as soon as the facts have been ascertained and reduced to writing. In any event, the written notice is to be filed within one (1) week of the incident and shall include a request for relief or remedy.

Except where the authority is dictated by law, the Board's jurisdiction to decide grievances includes those which involve elected as well as appointed personnel, with the exception of employees covered under collective bargaining agreements.

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23-4 The Hearing

Upon receipt of the grievance notice, the Town Administrator shall within ten (10) working days schedule a hearing and give notice to all those involved. The Board will follow their established procedure for the purpose of conducting the grievance hearing.

23-5 The Ruling

After hearing the grievance the Board shall issue its findings and render its decision which may affirm, deny or amend the requested remedy.

The Board's decision on a grievance on any matter covered by this By Law shall be final and binding on all parties. A copy of the decision will be forwarded to affected parties and filed in the Human Resource's office.

24.0 Role of Town Administrator *(Amended 5/8/2018 ATM)*

The Board of Selectmen and the Personnel Board may delegate to the Town Administrator any of their responsibilities or authority under this by-law or any applicable General Law with the exception of the actual appointment or termination of an employee. By way of example, this delegation may but is not limited to the following:

- (a) All record-keeping, including attendance reports and personnel files;
- (b) Control over Town Hall, including setting reasonable regulations regarding access, hours of operation, installation of utilities, and assignment of offices and security provisions;
- (c) Coordination of all posting of notices and procedures for reviewing applicants and other matters related to recruitment and hiring;
- (d) Scheduling of meetings of all Town boards and committees; and,
- (e) Approval of all requests for leave

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Appendix A

Definition of Family Members.

I. For the purposes of bereavement leave in Sec. 11 of the By-Law, the individuals with the following relationships to the employee are considered family members or immediate relatives:

- (a) Spouse, and parents thereof;
- (b) Sons and daughters, and spouses thereof;
- (c) Parents, and spouses thereof;
- (d) Brothers and sisters, and spouses thereof;
- (e) Grandparents and grandchildren, and spouses thereof;
- (f) Domestic partner and parents thereof, including domestic partners on any individual in subsections (b) through (e) of this definition and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

II. A parent shall mean:

- (a) A biological, adoptive, step, or foster parent of the employee, or a person who was a fosterparent of the employee when the employee was a minor;
- (b) A person who is the legal guardian of the employee or was the legal guardian of the employee when the employee was a minor or required a legal guardian;
- (c) A person who stands in loco parentis to the employee or stood in loco parentis to the employee when the employee was a minor or required someone to stand in loco parentis; or
- (d) A parent (as described in the above subparagraphs) of an employee's spouse or domestic partner.

III. A son or daughter shall mean:

- (a) A biological, adopted, step, or foster son or daughter of the employee;
- (b) A person who is a legal ward or was a legal ward of the employee when that individual was a minor or required a legal guardian;
- (c) A person for whom the employee stands in loco parentis or stood in loco parentis when that individual was a minor or required someone to stand in loco parentis; or
- (d) A son or daughter (as described in a-c) of an employee's spouse or domestic partner

IV. A domestic partner shall mean:

An adult in a committed relationship with another adult, including both same sex and opposite-sex relationships.