As adopted by the Board of Selectmen June 7, 2011

HUMAN RESOURCES PROCEDURES MANNUAL (HRPM)

of the Town of Chilmark

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Section 1.1 Purpose

Discriminatory Harassment Policy

Introduction: It is the goal of the Town of Chilmark to promote a workplace that is free of discriminatory harassment ("harassment") of any type, including sexual harassment. Discriminatory harassment consists of unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law, such as sex, race, color, national origin, religion, age, disability, or sexual orientation. The Town of Chilmark will not tolerate harassing conduct that affects employment conditions, that interferes unreasonably with an individual's performance, or that creates an intimidating, hostile, or offensive work environment.

Harassment of employees occurring in the workplace, in conjunction with work-related travel, and/or work-related events will not be tolerated. Further, any retaliation against an individual who has complained about harassment or retaliation against an individual for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated.

Because the Town of Chilmark takes allegations of harassment seriously, the Town will respond promptly to complaints of harassment. Where it is determined

that inappropriate conduct has occurred, the Town will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

While this policy sets forth the Town's goals of promoting a workplace that is free of harassment, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for workplace conduct which it deems unacceptable, regardless of whether that conduct satisfies the definition of harassment.

Definitions:

A. "Harassment" means unwelcome conduct, whether verbal or physical, that is based on a person or group protected by law. Harassment includes, but is not limited to:

1. Display or circulation of written materials or pictures, that are degrading to a person or group protected by law as previously described.
2. Verbal abuse, threats, slurs, derogatory comments, or insults about, directed at, or made in the presence of an individual or group protected by law as previously described; and
3. Any direct or implied requests by a supervisor for favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment.

B. "Sexual Harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

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

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

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

humiliating to either male or female workers may also constitute sexual harassment.

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

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

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the Town. In fact, such retaliation will usually result in termination.

Complaint Procedures: All employees, managers, and supervisors of the Town of Chilmark share responsibility for avoiding, discouraging and reporting any form of discriminatory harassment. The primary responsibility for ensuring proper investigation and resolution of harassment complaints rests with the Human Resources Board of Chilmark (HRBC) or its designee, who will administer the policy and procedures described herein.

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

Prompt reporting of harassment is in the best interest of the Town and is essential to a fair, timely, and thorough investigation. Accordingly, complaints should be

filed as soon as possible following the incident(s) at issue. If you would like to file a complaint you may do so by contacting the Executive Secretary (who will transmit the complaint to the HRBC) or to the HRBC Chair directly. These persons are also available to discuss any concerns you may have and to provide information to you about our policy on harassment and our complaint process.

Complaint Investigation: When a complaint is filed with the HRBC it will promptly investigate the allegation in a fair and expeditious manner to determine whether there has been a violation of our policy. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation will include private interviews with the person filing the complaint and with witnesses. The HRBC Chair will also interview the person alleged to have committed harassment. The complainant, the person alleged to have committed harassment, and all Town employee-witnesses are required to fully cooperate with all aspects of the investigation. An employee does not have a right to have an attorney to be present during a complaint interrogation unless an employee is being questioned about criminal conduct. However, employees that are members of a collective bargaining unit have the right to the presence of a union "buddy" if they so request to assist them during any interrogation that a reasonable person would believe might result in discipline. (If an interrogation is scheduled in advance and the union sends an attorney as its representative, such attorney may be present in lieu of such union "buddy".) When the HRBC has completed its investigation, they will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

Notwithstanding any provision of this policy, the HRBC reserves the right to investigate and take action on its own initiative in response to behavior and conduct which may constitute harassment or otherwise be inappropriate, regardless of whether an actual complaint has been filed.

Employees should be aware that all complaints will be investigated. It is not possible to ask that no action be taken once a complaint is made.

If it is determined that inappropriate conduct has occurred, the HRBC will make a recommendation to the Board of Selectmen, act promptly to eliminate the offending conduct, and where it is appropriate the Board of Selectmen or other appointing authority will also impose disciplinary action.

Disciplinary Action: If it is determined that inappropriate conduct has been committed by a Town employee, the Town will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as it deems appropriate under the circumstances. In cases of retaliation, termination is usually the appropriate level of discipline.

State and Federal Remedies: In addition to the above, if the employee believes that he or she has been subjected to discriminatory harassment of any type, including sexual harassment, the employee may file a formal complaint with either or both of the government agencies set forth below. Using the Town's complaint process does not prohibit the employee from filing a complaint with these agencies. Each of the agencies requires that claims be filed within 300 days from the alleged incident or when the complainant became aware of the incident.

The United States Equal Employment Opportunity Commission ("EEOC")
One Congress Street, 10th Floor
Boston, MA. 02114
(617) 565-3200

The Massachusetts Commission Against Discrimination ("MCAD")
Boston Office:
One Ashburton Place; Room 601
Boston, MA. 02108
(617) 727-3990

Springfield Office:
424 Dwight Street; Room 220
Springfield, MA. 01103
(413) 739-2145

Section 1.2 Application

All Town Departments and positions shall be subject to the provisions of this Bylaw and policies adopted pursuant to this Bylaw, except elected officers, employees of the School Department, Temporary employees and Seasonal employees.

Section 1.5 Human Resource Records

In coordination with the Executive Secretary, the Human Resources Board of Chilmark (HRBC) will help ensure records will be maintained relating to each employee's tenure of service, including but not limited to accepted offers of appointment, performance evaluations, letters of commendation received, training and certifications, and disciplinary action for each employee.
Any record containing personal medical information shall be retained in a separate confidential file, access to which shall be limited to those individuals who have a legitimate need for the information. Depending on the type of work and the type of illness or condition, such information may be disclosed to an employee's supervisor and department head. No confidential information shall be released or disclosed to any third party without written authorization from the employee or pursuant to appropriate legal process.

Each Department Head shall work with the Town Accountant and Treasurer to maintain accurate attendance records for its employees at the Town Office, unless otherwise authorized by the Human Resources Board of Chilmark (HRBC). These records will include, as appropriate, the following: hours of regular pay; hours of overtime pay; hours of stand-by duty (on call), hours and type of paid leave, available and taken; and hours and type of authorized unpaid leave taken. The records will be submitted to the Executive Secretary, signed as necessary, with each payroll.

Section 2.0 Recruitment and Hiring

Overview of Process

The following shall apply to any employee hired to work for the Town of Chilmark. It should be noted that the elected Library Board of Trustees, Board of Assessors and Board of Health have separate statutory responsibilities and procedures that complement but not necessarily mirror this policy.

With the approval of the Human Resources Board of Chilmark (HRBC) and Appointing Authority, a Department Head seeking to fill a Year-round position shall prepare, in coordination with the Executive Secretary, a notice of vacancy based on the job description for the position. The notice shall include the job title, the initial rate of pay or pay range, a summary statement of duties, the minimum qualifications relating to education, skills, and/or experience, directions for submitting applications, and the deadline for receipt of applications. The deadline for receipt of applications will be no sooner than ten (10) days after posting. The notice shall be posted in the Town Office Building and at other locations as appropriate.

Job vacancies shall be posted and published in the Town's journal of record and professional journals. Vacancies for seasonal positions may be advertised and posted but are not so required.

If the position being advertised is new or if existing job requirements have been altered to the extent that a new job description is required, the vacancy notice shall be posted after the job description has been promulgated by the HRBC and approved by the Appointing Authority, if at all possible.

All application forms of successful applicants shall be retained at Town Hall. The application form shall include a statement signed by the applicant certifying to the truthfulness and accuracy of all information provided on the forms.

The Appointing Authorities and/or its designee(s) will review applications from candidates and the results of employment interviews with them, and consistent with Section 1.1 of the Bylaw and with the procedures set forth in this manual, make their selection based on qualifications, including successful completion of

any examination that measures ability to perform the essential functions of the job, receipt of satisfactory references from prior employers, supervisors or others who are familiar with the applicant's job performance, and all background checks as required by law.

At the conclusion of the recruitment and interviewing process the Department Head may extend a provisional offer of employment to the chosen candidate pending appointment by the Appointing Authority, in most case that is the Board of Selectmen. If a Department Head determines a new, Year-round Employee must begin working before he or she may be appointed by the Board of Selectmen, the employee shall be considered a Temporary Employee until formally appointed by the Board of Selectmen. The official hire date is the first day of employment as a Temporary Employee.

After a conditional offer of employment has been made, a pre-employment physical examination by a qualified physician of the employer's choice may be required. This is to insure that the employee is capable of performing the essential duties of the position, with or without reasonable accommodation. The report is to be made on a form to be provided by the Town of Chilmark, and the cost of the physical examination shall be paid by the Town.

Accepted offers of employment shall be confirmed in writing to the selected applicant and shall include the starting date and hours of work, initial salary or rate of pay, and exempt or non-exempt status. Such offers shall be placed in the employee's human resources file.

Procedures for the Recruitment and Hiring of Appointed Employee Department Heads

Job Descriptions

Wherever possible, before the recruitment process begins (that is, before a Vacancy Notice is posted or the vacancy advertised), an up-to-date job description specifying key duties and responsibilities and required knowledge, skills and abilities should be in place.

Since in most cases Department Head changes are anticipated well before they are announced, the departing employee's Supervisor(s) (as per the Town Services Organization Chart) and a designated representative of the HRBC will have the time to prepare a revised job description, if necessary, for referral to the HRBC and Board of Selectmen for their consideration and approval.

In emergency situations where a job description needs updating but where the recruitment process must commence within days of receiving notice of the pending vacancy, the job description will be revised preliminarily by the Supervisor(s) and a designated representative of the HRBC and serve as a basis

for the preparation of the Vacancy Notice and publication advertisement. While both the HRBC and Board of Selectmen or other Appointing Authority are required to approve any revised job description, it is understood that in these unusual circumstances said reviews should not interfere with the recruitment timing.

Initial/Final Candidate Review Team

The Initial Review Team usually shall consist of no more than three people, including the employee's Supervisor(s) and another Town representative(s) designated by the Supervisor. A member of the HRBC shall serve as advisor to the Initial Review Team on human resource-related matters.

The Initial Review Team shall prepare a working timeline with all milestone or decision deadlines; maintain a log of all application inquiries and responses thereto; evaluate all completed applications and related materials. In addition, before recommending a list of candidate finalists to be interviewed by the Final Review Team, the Initial Review Team may conduct preliminary candidate interviews, either in person or by phone, check references and conduct background checks. Sufficient time and funds should be budgeted for negotiating compensation, possible relocation expenses and a start date that allows for overlap training time with the departing Department Head.

The Supervisor(s) may recommend a staff person to assist the Initial Review Team in the recruitment and hiring process.

Final Review Team

The Board of Selectmen shall serve as the Final Review Team and shall make the hiring decisions for the following appointed employee Department Heads and other key management positions: Building Inspector, Executive Secretary, Fire Chief, Harbormaster/Wharfinger, Police Chief, Tax Collector, Town Accountant, Town Clerk, Shellfish Constable/Propagation Agent and Superintendent of Streets. At its request, a member of the HRBC shall serve as an advisor to the Board of Selectmen on human resources-related issues and perform other duties as specified (e.g., background checks).

The Final Review Team for other appointed employee Department Heads and key management positions including the Assistant Assessor, Beach Superintendent, Cemetery Superintendent, Conservation Officer, Custodian, Health Inspector, Library Director, Tri-Town Ambulance Chief shall include the Chair of Board(s), Committee(s), or Commission(s) that supervise the Department Head and any other Town official(s) that the Chair(s) would like to include. At their request, a member of the HRBC shall serve as an advisor to the Board of Selectmen on human resources-related issues and perform other duties as specified (e.g., background checks).

Procedures for the Recruitment and Hiring of Year-round Support Staff

The Department Head or Executive Secretary notifies the Board of Selectmen and the HRBC Chairman of the pending vacancy and requests agreement to initiate the recruitment and hiring process. Where a job description for the position needs updating, or if there is insufficient time to obtain the prior approval of the HRBC and Board of Selectmen(or other Appointing Authority), the Board of Selectmen Chair (or Chair of the Appointing Authority) can authorize the Department Head or Executive Secretary to initiate the recruitment and hiring process.

The Department Head or Executive Secretary identifies a candidate review team for the recruitment and hiring process which may include the Chair(s) of the Board(s), Committee(s), or Commission(s) that will work with the employee. Upon request, a member of the HRBC shall serve as an advisor to the candidate review team on human resources-related issues and perform other duties as specified (e.g., background checks).

The Department Head or Executive Secretary, within budgetary constraints, has the authority to determine the starting Step level between Step 1 – Step 3 of a position's pay grade within budgetary constraints without requiring the prior approval of the HRBC or Board of Selectmen.

At the conclusion of the recruitment and interviewing process the Department Head or Executive Secretary may extend a conditional offer of employment to their chosen candidate pending appointment by the Board of Selectmen or other Appointing Authority. If a Department Head determines a new, Year-round Employee must begin working before he or she may be appointed by the Board of Selectmen or other Appointing Authority, the employee shall be considered a Temporary Employee until formally appointed by the Board of Selectmen or other Appointing Authority. The official hire date is the first day of employment as a Temporary Employee.

Procedures for the Recruitment and Hiring of Seasonal Staff

Vacancies for seasonal positions may be advertised and posted but are not so required. A Department Head or Executive Secretary may post, advertise, interview and hire seasonal employees without the direct prior approval of the HRBC or Board of Selectmen or other Appointing Authority. The Department Head will inform the Chair of the HRBC and the Executive Secretary (if he or she is not involved in the recruitment and hiring process) who will inform the Board of Selectmen or other Appointing Authority of the hiring schedule each year and during the summer if replacement seasonal staff is needed.

As with Year-round support staff positions, a Department Head or Executive Secretary has the authority to determine the starting Step level between Step 1 –

Step 3 of a position's pay grade within budgetary constraints without requiring the prior approval of the HRBC, Board of Selectmen or other Appointing Authority.

If there is a salary circumstance that is outside of these parameters, prior discussion with the HRBC is required.

At the conclusion of the recruitment and interviewing process, the Department Head may extend a conditional offer of employment to the chosen candidates pending appointment by the Board of Selectmen or other Appointing Authority. If a Department Head determines a new, Seasonal Employee must begin working before he or she may be appointed by the Board of Selectmen or other Appointing Authority, the employee shall be considered a Temporary Employee until formally appointed by the Board of Selectmen or other Appointing Authority. The official hire date is the first day of employment as a Temporary Employee.

Employment of Immediate Family Members

The Town permits immediate family members to work in the same Department provided that no reporting, supervisory or managerial relationship exists. Exceptions require a finding by the HRBC that it is imperative that such a reporting relationship exist and, in such circumstance, the HRBC shall designate a non-relative third party to perform all evaluations of performance, benefits administration, and disciplinary determinations regarding the employee.

Employees who marry or enter into a similar close personal relationship while employed are to be treated in accordance with the foregoing guidelines.

Section 3.0 Initial Evaluation Period

Prior to the conclusion of the six-month initial evaluation period, or 12 months in the case of police department employees, including any extensions thereof as outlined in the HRPM, the Department Head shall make a recommendation in writing to the Appointing Authority that the candidate be appointed as a Year-round Employee or, terminated. If a department head intends to recommend termination, an employee may be placed on temporary leave prior to the end of the evaluation or probationary period pending action by the Board of Selectmen or other Appointing Authority.

Section 4.0 Classification and Compensation Plans

Classification Plan

The Fair Labor Standards Act (FLSA) has outlined specific criteria for employers to determine what jobs should be classified as "exempt" or "nonexempt". These classifications apply to permanent full time, part-time or casual positions whether paid by salary or on an hourly wage basis. Some seasonal and recreational

employees and all elected officials are excluded from the Act's coverage and therefore, are not required to have a specific exempt or nonexempt classification.

Exempt: Exempt positions are exempt from overtime pay as defined in the FLSA. The FLSA outlines several categories of exempt positions that may include certain executive, administrative, professional, outside sales and computer employees.

Nonexempt: Nonexempt positions are subject to both the minimum wage and overtime pay provisions of the FLSA. Some examples of nonexempt positions include administrative assistants, highway employees, non-supervisory police officers and fire fighters, paramedics, emergency medical technicians (EMT's) and similar other public safety employees.

Note: Nothing in the FLSA relieves employers from their obligations under union contracts.

Salaried and Hourly Wage Positions

The Town of Chilmark may, at its discretion, determine the pay method – whether salaried or paid by the hour -- for any nonexempt Town employment position.

Salaried Positions: A Salaried position receives a predetermined annual base pay that is based upon the job's grade, number of budgeted hours and employee's earned step. The annual salary is divided into equal gross amounts per pay period. A salaried position may have either an exempt or nonexempt classification and therefore, may or may not be subject to overtime compensation as defined in the Fair Labor Standards Act (FLSA). An employee holding a salaried position, whether exempt or nonexempt, is expected to maintain a regular office schedule or work a predetermined number of week days and hours as defined by their supervisor. These schedules may from time to time be adjusted in accordance with the Town's needs and flexible schedule policy.

Hourly Wage Positions: Hourly wage positions receive a predetermined hourly rate of pay that is based upon the job's grade and employee's earned step. Hourly wage earners receive compensation that is based upon the actual number of hours worked during a pay period. An hourly wage earner may work more or less than a position's weekly budgeted hours if approved by their supervisor in advance.

Exempt/Salaried Positions

Executive Secretary
Library Director
Harbormaster/Wharfinger
Police Chief
Fire Chief (Stipend)

Town Accountant
Tax Collector
Town Clerk
Building/Zoning Inspector
Tri-Town Ambulance Chief
Tri-Town Ambulance Deputy Chief

Nonexempt/Salaried Positions

Conservation Officer (Stipend)
Dog Officer
Cemetery Superintendent
Assistant Assessor
Health Inspector/Administrator
Custodian
Housing/Planning Administrative Assistant
Coordinator of Administrative Support
Assistant Library Director-Children's Librarian
Receptionist/Assistant

Nonexempt/Hourly Wage Positions

Superintendent of Streets
Shellfish Constable/Propagation Agent
Assistant Shellfish Constable
Janitor
Library Assistant
Library Aide
Library Associate
Assistant Dog Officer
Police Sergeant
Police Patrolman
Highway Laborer

Seasonal Nonexempt/Hourly Wage Positions

Summer/Special Police Officer

Seasonal/Hourly Wage – No FLSA Coverage

Assistant Wharfinger
Beach Superintendent
Assistant Beach Superintendent
Lifeguard
Beach Sticker Clerk
Beach Gate Guard

Beach Parking Attendant
Police Traffic Officer
Seasonal EMT
Administrative Assistant Harbor Department
Assistant Harbormaster
Assistant Harbormaster

Elected/Annual Salary (No FLSA Coverage)

Treasurer

Compensation Plan

The Human Resources Board shall develop a salary Compensation Plan to promote the recruitment of qualified applicants and to reward and retain employees based on a satisfactory job performance and evaluation. The Compensation Plan shall take into consideration the relative responsibilities of positions as set forth in the job descriptions, wage rates paid for comparable positions in comparable communities as well as in the private sector, wage rates paid under collective bargaining agreements, economic conditions in the general labor market and the Town's fiscal condition. The plan, after approval by the Appointing Authority, shall be reviewed and revised as needed from time to time in order to maintain a fair and equitable compensation system for the Town.

Compensation

The hiring rate shall be at the minimum of the rate range for the job unless the Department Head requests compensation at a higher rate based upon exceptional qualifications or a lack of qualified applicants available at the minimum rate. Such request shall be made to the Human Resources Board in writing by the Department Head at the time of employment. The Board shall approve or disapprove the request and make a recommendation to the Appointing Authority accordingly.

Upon successful completion of the Initial Evaluation Period, the Department Head may request from the Human Resources Board a higher hiring rate based upon the employee's demonstrated abilities. The Human Resources Board shall make a recommendation to the Appointing Authority accordingly.

Overtime and Compensatory Time

An employee** who occupies a position that is not "exempt" pursuant to the Fair Labor Standards Act (FLSA) is eligible for overtime pay. "Overtime" means those hours in excess of forty (40) actually worked in a seven-day week. (This definition may be different for Police Officers or Firefighters). Hours "worked", as defined under the FSLA, do not include any time on the job that is devoted to

uninterrupted lunch breaks. For example, in the case of an employee who was in the office for 42 hours in a week, but received a 30-minute daily-uninterrupted lunch break, the actual hours worked would not include the two and a half hours spent on lunch breaks.

Overtime is calculated only in respect of a work week as a whole. The Town of Chilmark defines a workweek as Sunday through Saturday. An employee who worked ten hours per day for four days in a week and was absent on paid leave for one day would have worked only 40 hours that week. If a non-exempt employee is also eligible for a 20-minute break, the break time counts toward the total hours worked in the seven-day workweek. The rate of pay for overtime is one and one-half (1 ½) the regular hourly rate. If an employee whose position is "non-exempt", and therefore eligible for overtime pay, is paid on a salary rather than an hourly basis, the rate of pay for overtime is one and one-half (1 ½) times the hourly rate equivalent for that position. Overtime does not affect the amount of annual or sick leave earned by an employee, both of which are accrued on a calendar basis.

If a Year-round, non-salaried employee exceeds his or her regular number of weekly work hours, and the extra work is mutually agreed upon in advance, the employee may choose to receive compensatory time off at the rate of time and one-half – in lieu of overtime pay – for actual time worked in excess of forty (40) hours per week. Accrued compensatory time off may be taken at such times as are mutually agreeable to the employee and the Department Head. According to the FLSA, the same agreement or understanding need not be used uniformly with different employees. Compensatory time have to be offered to all employees.

The foregoing guidelines on compensatory time are applicable only to the circumstances where the non-exempt employee has worked more than 40 hours in a workweek and may have, as a result, accumulated compensatory time. But compensatory time may also be granted to non-exempt salaried employees who work less than 40 hours in a workweek if such an employee exceeds his\her normal hours in a pay period, and the extra work has been mutually agreed in advance. In such cases, the employee may be granted equivalent compensatory time off at a straight –time rate until the total hours work exceed forty (40) hours in a work week. The compensatory time may then be used in an equivalent amount to make up for hours below the budgeted amount in a more slack period. The use of comp time received in this fashion is not fully discretionary for the employee, and must be cleared with the supervisor, who has to take into account broader questions of job management. Moreover the compensatory time thus received should be used at the first opportunity possible in light of work requirements. It is not to be used merely to attain a more flexible work schedule for personal convenience or to lengthen a vacation period.

A compensatory time agreement or understanding with individual employees need not be in writing but a record of its existence must be kept. Compensatory

time must be used within a "reasonable time" and generally may be taken when convenient for the employee unless the requested time off would unduly disrupt operations. Mere inconvenience does not constitute a disruption. To avoid excessive gaps due to employee absence, the hours of compensatory time that may be accumulated may not exceed the equivalent hours of one normal work week for that position—i.e., forty (40) hours for a full time position, twenty (20) hours for a 20 hour per week position, etc. Any hours worked over the limits on accumulated comp. time will receive pay for the hours exceeding the compensatory time limits. Accumulated compensatory time must be used within the fiscal year in which it was accrued unless mutually agreed in writing to extend the period by up to three (3) months. The Town may "buy back" any amount of accrued compensatory time at any time.

**Some seasonal and recreational employees are exempt under the FLSA. Positions that have slack and busy periods (of a cyclical nature), such as a Building Inspector, for example, are deemed non-exempt under the law so that incumbents of those positions are eligible for overtime (as defined above) unless they are otherwise exempt because of the kind of work they do. A contractual employee, who is not otherwise employed by the Town, is always exempt under the FLSA.

Promotions and Transfers

When an employee is promoted to a higher-rated job, the employee shall enter the position at the minimum rate of the job range or at the closest step that is equal to or greater than the employee's present rate, whichever is higher. The employee may also receive a step increase at that time if the Department Head feels that the employee's qualifications and performance warrant it and with Human Resources Board and Appointing Authority approvals.

If an employee is transferred and reclassified to a lower-rated job, the employee shall enter the position at the employee's present rate or at the closest step of the lower-rated job that is equal to or greater than the employee's present rate or, at the maximum rate of the position, whichever is lower.

When rate ranges are affected by a wage increase voted by the Town, either by a fixed percentage or a fixed amount, an employee covered by the Compensation Plan and in the classifications specified, except those holding personal rates, shall benefit. An employee holding a personal rate shall not receive an increase until the maximum rate from the Classification Plan exceeds the personal rate.

No pay shall be reduced as a result of a rate range revision of the plan. If an employee receives a pay rate above the maximum rate for the job, this rate becomes a personal rate and applies only to the present employee.

Section 6.2 Sick Leave

An employee using sick leave must notify the Department Head or Appointing Authority as early as possible on the first day of absence from work. The Department Head may require a physician's certification of the employee's inability to work, if the absence is of three (3) days or more duration, or if there is a series of repeated absences over the prior year.

Employees who have exhausted all their sick leave benefits may, with the approval of the Department Head or Appointing Authority, have their absence charged as vacation time.

Year-round Employees may have different work schedules and weekly hours throughout their career. The number of hours per day of unused sick leave shall be determined as follows: The employee's highest three-year average annual number of hours worked is divided by 52.2 weeks. This determines the highest weekly number of hours worked. This weekly average is divided by five to determine the average number of base hours worked in a work day.

Section 6.5 Military Leave

Qualified employees are entitled to the rights as outlined under the Uniformed Services Employment and Reemployment Rights Act, as may be amended from time to time.

Section 6.6.1 Maternity/Paternity Leave

In order to be eligible for Maternity/Paternity Leave under this section, the employee is required to give two (2) weeks notice if feasible to his or her Department Head in advance of the anticipated date of departure, stating his or her intention to return and anticipated date of return. Upon his or her return to work, the employee is entitled to be restored to his or her previous position or to a similar position, which has the same status and pay rate as her previous position, and to the length of service credit and seniority as of the date of his or her leave. If the employee's position is no longer available as a result of a reduction in force, the employee shall be provided the same opportunities and rights afforded other employees in his or her job title.

Section 7.0 Family and Medical Leave

Refer to the Human Resources Bylaw of the Town of Chilmark dated April 25, 2011.

Section 8.0 Civic Leave

The Town Human Resources Bylaw addresses the issue of Civic Leave. The Bylaw states that the Town will not pay volunteer emergency medical technicians and firefighters who respond to emergencies without the approval of the department head(s) or supervisor. In circumstances where the supervisor determines the response will not disrupt the operation of their specific department, the volunteer will generally be paid. In cases of "dire emergency" where the supervisor may not be available the employee may respond if the employee's response is essential.

The Town also recognizes that an exempt employee on Civic Leave cannot be regulated by the Bylaw according to the Fair Labor Standards Act. The decision as to which exempt essential employees would fall into this category remains with the Board of Selectmen.

Section 9.0 Holidays

Year-round Employees shall be entitled to half days off with pay before New Year's Day, Thanksgiving Day and Christmas Day, providing that these half days fall on working days and the employee is not necessary to maintain essential Town services. Under the provisions of Chapter 4, Section 7, Clause Eighteen, legal holidays that fall on a Saturday shall be observed on that day. Employees assigned to work shall be given an additional day off as the law and applicable collective bargaining agreements allow. Whenever possible, the following Monday shall be used as the alternative day off. A legal holiday shall be observed on the day following when said holiday should occur on Sunday (Chapter 4, Section 7, Clause Eighteen).

A Year-round Employee will be excused without loss of pay from working on a holiday which falls or is observed on a day he/she is regularly scheduled to work.

A Year-round Employee who does not have an established work schedule shall not be eligible for holiday pay.

A Year-round, Non-Exempt Employee who is required by his or her Supervisor to work on a holiday will be compensated for the hours worked at a rate of pay equal to one and one-half (1 1/2) times his/her regular hourly rate, in addition to his/her regular pay for the day. A Year-round employee whose established schedule is not a standard Monday-Friday work schedule or whose regular schedule does not include the day on which a holiday falls or on which it is observed shall be granted a paid day off on a day that is approved by his or her Supervisor. This day off must be taken within the fiscal year of the observed paid holiday.

Section 10.0 Travel Reimbursement

Mileage. An employee and/or an elected official shall submit requests for reimbursement to the Supervisor at such intervals and with such supporting documentation as the Supervisor may require. The rate of reimbursement shall be the current IRS rate per mile.

Employees may be reimbursed for use of their personal vehicle when used in connection with town business. The employee must keep a record of the miles driven, as required by the Internal Revenue Service, and will be reimbursed at the mileage allowance rate as defined by the Internal Revenue Service at that time. A written document prepared and signed by the employee, must be submitted to the department head for approval and submission for payment with other department invoices.

Employees whose vehicles/equipment/boats, etc. may be used in connection with town business for use other than driving to and from a location, may negotiate directly with the Board of Selectmen to establish a reimbursement stipend for use of their equipment. This stipend must be/have been appropriated within the annual budget of the department for which they work. A written documentation prepared and signed by the employee, must be submitted to the department head for approval and submission for payment with other department invoices.

Meals, lodging, and out of pocket expenses. Employees and elected officials shall obtain prior approval of the Supervisor or Appointing Authority, before incurring expenses in connection with a trip on Town business. Requests for reimbursement shall be made within two (2) weeks of the completion of the trip and shall include receipts for lodging and travel documenting the expenses. Employees will receive a per diem for meals. In the event that receipts are not available for lodging and travel, the employee shall provide a signed explanation of the expenses. Reimbursement for meals and lodging shall not, in any event, exceed the current federal government per diem rate. Reimbursement for a rate higher than the government per diem rate shall be approved by the Supervisor prior to departure.

Section 11.0 Annual Performance Evaluations

The performance evaluation form included in the HRPM Appendix as Exhibit I shall be used for initial evaluation period reviews and annual performance evaluations. Certain Departments (such as the Police Department or Departments with seasonal positions) may have a customized evaluation form that reflects the specific disciplines needed to perform their positions.

Section 11.2

Performance evaluations shall be conducted by an employee's supervisor as outlined in the Chilmark Town Services Operation and Organization Employee & Administrative Supervision Chart – included in HRPM Appendix Exhibit II. The following outlines the key procedures:

1. A self evaluation will be filled out prior to the employee's evaluation.
2. The final signed review should be placed in a sealed envelope and given to the Exec. Sec. who will in turn give it to the Chair of the HRBC unless other arrangements are made.
3. The Executed review will be returned to the Exec. Sec. who will place it in the employee's personnel file or return it to the Library Director or Police Chief. A copy of the step increase recommendation shall be given to the Treasurer and Town Accountant.
4. The Library and Police Department will maintain their employee human resources files in their respective buildings.

Section 12.0 Disciplinary Action Procedures

Oral Warning

A Department Head may issue an oral warning to an employee when he or she has observed, or otherwise become aware of, unacceptable conduct or performance. The warning shall be issued in a private setting away from other employees or the public. The reasons for the warning shall be stated to the employee. A record of the oral warning will be made and placed in the employee's human resources file.

Written Warning

If an oral warning has failed to correct the unacceptable conduct or performance, or where the conduct or performance merits more serious initial action, the Department Head may issue a written warning to the employee. The reasons for the warning shall be stated with the required change in conduct or behavior specified. Copies of the written warning shall be given to the employee and placed in the employee's human resources file.

Disciplinary Probation

If a warning or warnings fail to correct unsatisfactory job performance, or unacceptable conduct, or when such conduct merits more serious initial disciplinary action, the employee may be placed on disciplinary probation for a period not to exceed three (3) months, at the discretion of the Department Head, with the approval of the Appointing Authority. The employee will receive a written notice at least three (3) days prior to the commencement of the

probationary period stating the reasons for the probation, and the standards by which satisfactory completion of the probation will be determined. Upon conclusion of the probationary period the Department Head will notify the employee and Appointing Authority whether he or she recommends the employee be retained or terminated from employment.

Suspension

An employee may be suspended without pay for a period not to exceed forty five (45) days by his or her Department Head, with the approval of the Appointing Authority. The employee will be given written notice of the reason for the suspension and the length of the suspension. Notice will be given three (3) days prior to the commencement date unless the suspension is for such serious conduct that it is in the best interests of the Town that it begin forthwith, in which case written notice will follow within three (3) days. If an immediate suspension is deemed necessary by a Department Head a Selectman will be notified of the circumstances and action as soon as possible.

Demotion or Termination

An employee may be demoted to a position of lower rank, due to disciplinary, re-organization or mutual agreement reasons, or dismissed for unsatisfactory job performance, violation of Town regulations including this Bylaw, misconduct of sufficient severity, or after the exhaustion of other disciplinary measures.

Section 13.0 Grievance Procedures

A complaint must first be brought to the attention of the employee's direct Supervisor. If the employee is not satisfied with the results of the discussion with the Supervisor he or she may bring the matter to the attention of the Department Head or HRBC. If the complaint is related to the employee's Supervisor he or she may bring it directly to the attention of the HRBC or Appointing Authority.

If the employee is not satisfied with the results of the review by the Supervisor or Department Head or Appointing Authority he or she may submit the complaint in writing to the HRBC. The HRBC will meet with the employee and the person or persons who initiated the grievance and conduct an investigation into the facts alleged in the grievance. The HRBC will make every effort to resolve the grievance promptly and fairly. If the HRBC is unable to resolve the grievance to the employee's satisfaction within fourteen (14) days of meeting with the employee, the HRBC will provide the employee with a written statement of its position within an additional seven (7) days. This procedure shall be the exclusive means of seeking redress for an alleged violation of this bylaw.

Miscellaneous Chilmark Human Resources Policies:

Flexible Work Schedules Policy for Year-round Employees

The Town of Chilmark recognizes that the personal circumstances of employees vary and that these can change over time. Accordingly, the Board of Selectmen affords flexibility to department heads and managers in administering work schedules of employees to accommodate such considerations, consistent with sound management practices. The degree of flexibility permitted must adhere to the following guidelines and may vary considerably among positions, depending on the nature of the tasks involved, the amount of contact with the public, and the extent to which coordination is required to ensure job coverage where regularly scheduled hours are published.

1. The changes in work schedules (hours and\or days in the case of part time and casual employees) permitted should not be frequent, generally no more than twice per year.

2. When a Town Hall employee has scheduled hours for dealing with the public, this schedule should not start or stop more than two hours outside the published 9:00AM to 5:00 PM Town Hall hours of operation. Any exception requires the approval by the employee's supervisor.

3. Year-round Employees must be on the job at least part of the day all five work days in the week unless on authorized leave. This may be adjusted accordingly for Year-round Employees who do not work a five day work week.

4. In implementing this policy, first priority must be given to requirements of the work and good service to the public.

5. In formulating or adapting work schedules for more than one employee, fairness and equity must be taken into account.

6. Employees may not alter their work schedule without prior approval from their supervisor.

Some positions involve flexible schedules by their very nature (i.e. dog officer, shellfish constable, etc). Others require discretionary flexibility of work schedules due to the on-call nature of the services (i.e., Fire, Police and EMT services. Others, such as the Librarian and Harbormaster are more autonomous from Town Hall. They supervise more than one employee and have published hours of service to the public; therefore they fit within the guidelines in the preceding paragraph. But in all cases guidelines (4), (5) and (6) will apply across-the-board. Deviations from these policies, either by an employee or a manager, should be

brought to the attention of the Personnel Board except in those cases where another authority such as a union, has jurisdiction.

Within the framework of the foregoing guidelines, supervisors must establish a plan for flexible schedules for employees if such a policy is appropriate to the particular circumstances of their work unit. In the case of those units with more than one employee that come directly under the purview of the Chilmark Board of Selectmen, (Fire Department, Library, Police Department, Harbormaster), the unit managers should prepare a brief memorandum describing how a flexible work schedule is applied in their unit or why it is not applicable to their particular circumstances. That memorandum should be sent to the BOS through the Executive Secretary, with a copy to the Personnel Board. Similarly, any subsequent changes in operational policy in that regard should be notified briefly in writing to those parties.

In the case of employees who fall under the direct supervision of heads of boards and commissions, etc, and who work in Town Hall, the process has to take into account the need for administrative coordination. Accordingly, each supervisor would prepare a brief proposal on how the flextime policy should apply to employee(s) they supervise and send this to the Executive Secretary with a copy to the Personnel Board. The Executive Secretary, assisted by the Coordinator of Administrative Support (CAS), will review the proposals, taking into account overall staffing and equity issues. The Executive Secretary will bring to the attention of the Personnel Board those cases, if any, where there is a question of the consistency of the proposal with the Policy Guidelines for flextime. Once these proposals are approved, which should be done within two weeks, any subsequent changes desired need to be reviewed in the same manner.

In the case of employees under the direct supervision of the Executive Secretary, the formulated operational policy statement would be copied to the Board of Selectmen and to the Personnel Board, as would any subsequent changes therein. There are no formal guidelines applicable to elected officials Nevertheless, in-so-far as there are published hours of availability and\or their work requires coordination with other staff (such as the Treasurer with the accountant and Town Clerk) the incumbent will inform the BOS through the Executive Secretary of changes in the work schedule contemplated. And, a work schedule much outside the normal business hours of Town Hall and\or frequent changes therein ought to be avoided.

Lunch and Breaks Policy

It is the policy of the Town of Chilmark that lunch breaks are not paid. The normal working day allows for one half an hour unpaid break for employees working at least six hours in any calendar day. If an employee should be interrupted during their one half hour, unpaid lunch break to respond to issues directly related to the employee's job, the entire lunch break (one half hour)

should be considered and properly recorded as time worked. The Town encourages employees to take their earned 30-minute lunch break.

For employees working six hours in any calendar day there is a twenty-minute break in that workday. This is a paid break. It may be taken as one twenty or two ten minute breaks throughout the day. These breaks may not be added on to the scheduled lunch break to increase the time taken off for lunch or taken at the beginning or the end of the workday. Whenever possible, the break should be taken at times that do not interfere with normal workflow.

This policy does not apply to departments with 24-hour operations such as the Police Department.

Contract Labor Policy

The Town of Chilmark may enter into a contract with an existing employee for additional services related to or unrelated to the employee's current position. In these cases, an employee must sign an acknowledgment that he/she understands the pay rate is at least time and one half the regular rate for (any and) all hours worked over the employee's first 40 hours per week. The contract invoice must itemize the dates and hours worked under the contract and the respective contracted rates, as well as any additional charges for materials, vehicle use, etc. Any exception to this Policy will require written confirmation from the Town Counsel that the work provided would not result in overtime liability for the Town under the FLSA.

Appendix

Exhibit I: Performance Evaluation Form

Exhibit II: Chilmark Town Services Operation & Organization Employee & Administrative Supervision Chart

CHILMARK PERFORMANCE EVALUATION AND STEP INCREASE FORM
(Use additional space as needed)

1. Please identify the major tasks or activities that this employee performed during the past year.

2. Evaluate in some detail how well this employee performed each of the major tasks identified above. (Please highlight significant accomplishments, as well as any areas where improved performance is necessary).

3. Detail the major goals and objectives on which this employee should concentrate over the next year.

4. Is the job description for this employee's position up-to-date? Yes or No.

5. Employee comments on the performance review, its conclusions and goals and objectives for future development.

_____ _____
Supervisor Signature Date

_____ _____
Employee Signature Date

STEP INCREASE FORM

Step Increase Approved: ☐

Not Approved: ☐

Department Head/Supervisor(s):

Name: _____

Signature: _____

Title: _____

Employee:

Name: _____

Title: _____

Signature: _____

Town Accountant: _____ Town Treasurer: _____

CHILMARK
TOWN SERVICES OPERATION & ORGANIZATION

EMPLOYEE & ADMINISTRATIVE SUPERVISION

A. BOARD OF SELECTMEN STAFF OVERSIGHT

B. BD. OF SELECTMEN COLLABORATIVE RESPONSIBILITY

C. EXECUTIVE SECRETARY STAFF OVERSIGHT

TOWN ADMINISTRATION	TOWN FINANCE	TOWN PUBLIC SAFETY	TOWN PUBLIC SERVICES	TOWN UTILITIES & TRANSPORTATION	TOWN DEVELOPMENT	TOWN RESOURCES & ENVIRONMENT
Executive Secretary	Dukes. Co. Fin. Adv.	Fire Dept.	Harbor Department	Cable TV Adv. Bd. Mem.	Building Inspector	Shellfish Adv. Committee
Personnel Board	Cap. Improv. Plan. Comm.	Police Dept.	Harbor Advisory Comm.	MVTV Member	- Plumbing Inspect.	- Shellfish Prop. Agent
Town Clerk	BD. OF ASSESSORS	Harbor Department	Mooring Assign. Comm.	Joint Trans. Members	- Gas Inspector	Shellfish Constable
Coord. of Admin.	FINANCE COMM.	Tri-Town Ambul.	UIRSD/MVRHS MEMBER	VTA Member	- Wire Inspector	- Ass't. Shellfish Const.
Custodian	TREASURER	Emerg. Med. Tech.	LIBRARY TRUSTEES	Planning Bd. Rd. Agent	PLANNING BOARD	Historical Comm.
- Janitor	Tax Collector	BD. OF HEALTH	CEMETERY COMM.	Highway Dept.	Site Review Comm.	Conservation Comm.
All Admin. Ass't.	Accountant	Dump/Transfer Sta.	MODERATOR		Zoning Bd. of Appeals	Comm. Pres. Comm.
Receptionist/Asst.	Asst. Assessor	LDO/Dumpmaster	WOOD. LUM. BARK		ELECTED M.V. COMM.	Moth Inspector
		Disp. Works Insp.	FENCE VIEWERS		M.V. Commissioner	Conserv. Officer
		Disaster Planning	TREE WARDEN		ELECTED LAND BANK	
		Emergency Mgmt.	CONSTABLE		Land Bank Rep.	
		Health Inspector	Beach Committee			
		Dog Officer	Parks & Rec.			
		Animal Inspector	Housing Committee			
			Dukes Co. Hsing. Mem.			
			Council on Aging			
			Community Center			

NOTES: Elected Boards and Officials accountable to Town voters are shown in CAPITAL LETTERS.

A. Where indicated in yellow, the Board of Selectmen is responsible for overseeing the leadership and/or operation of the department, board or committee.

B. Where indicated in green, the Board of Selectmen is responsible for collaborating with the department, board or committee operation on an ongoing basis.

C. Where indicated in orange, the Executive Secretary is responsible for overseeing a committee's or board's staffing needs, administration and daily supervision.

Employees are accountable to their respective Boards or Committees for the content and quality of their work.