

## Chapter 12

### PERSONNEL POLICY\*

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\* **Editors Note:** An ordinance adopted June 5, 1995 and effective July 5, 1995, replaced former Ch. 12, relative to personnel, which formerly derived from provisions of an ordinance adopted March 16, 1987.

**Charter References:** Town manager, § 301 et seq.; personnel system, § 402.

**Cross References:** Administration, Ch. 2.

**State Law References:** Conflicts of interest, 30-A M.R.S.A. § 2605; municipal clerk, 30-A M.R.S.A. § 2651 et seq.; law enforcement officers, 30-A M.R.S.A. § 2671 et seq.; municipal employment, 30-A M.R.S.A. § 2701 et seq.

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**Art. I. Introduction, §§ 12-1--12-10**

**Art. II. Initial Employment with The Town, §§ 12-11--12-30**

**Art. III. Employment Status, §§ 12-31--12-40**

**Art. IV. Work Scheduling, §§ 12-41--12-50**

**Art. V. Work Conduct and Responsibilities, §§ 12-51--12-60**

**Art. VI. Recognition and Promotion, §§ 12-61--12-70**

**Art. VII. Fringe Benefits, §§ 12-71--12-80**

**Art. VIII. Other Benefits, §§ 12-81--12-90**

**Art. IX. Injury on the Job, §§ 12-91--12-100**

**Art. X. Leaves of Absence, §§ 12-101--12-110**

**Art. XI. Disciplinary Action and Grievance, §§ 12-111--12-120**

**Art. XII. Discontinuing Employment, §§ 12-121--12-130**

**Art. XIII. Educational Training and Assistance, §§ 12-131--12-140**

**Art. XIV. Sexual and Verbal Harassment Policy, §§ 12-141--12-150**

**Art. XV. General Policies of the Town, §§ 12-151--12-160**

**Art. XVI. Personnel Issues, §§ 12-161--12-170**

**Art. XVII. Miscellaneous Programs Offered, §§ 12-171--12-180**

**Art. XVIII. Police and Fire Departments, §§ 12-181--12-187**

### ARTICLE I.

## INTRODUCTION

### **Sec. 12-1. Purpose of the policy.**

The town council hereby adopts the following Personnel Policy for utilization by the Town of Brunswick in the administration of personnel activities of its employees. This Personnel Policy constitutes the personnel rules called for by the Brunswick Town Charter, § 402(d) and is adopted pursuant to the authority conferred by the Town Charter and the town's statutory and home rule authority.  
(Ord. of 6-5-95, § 1(A))

### **Sec. 12-2. Applicability of policy.**

(a) This policy sets forth the principles and procedures which govern the relationship between the town and its employees. It is intended to provide employees the opportunity to be properly informed as to their benefits, rights, and responsibilities and to provide a procedure for dealing with personnel issues on an equitable basis.

(b) Article XVIII of this chapter pertains only to the police and fire departments and to the extent that Article XVIII is inconsistent with any other provision of this Policy, Article XVIII shall control the town's relationship with the employees of the police and fire departments.

(c) The right to join a lawful organization of their own choosing is granted to all employees in accordance with the State Municipal Public Employees Labor Relations Law. An employee shall not be discriminated against for joining or refusing to join any labor organization.

(d) The town's work force consists of:

- (1) Non-union employees;
- (2) Employees involved in collective bargaining units under Maine laws; and
- (3) Individuals with employment contracts.

This policy governs the relationship between the town and its non-union employees and does not apply to any individual with employment contracts or any employees involved in collective bargaining agreements with the exception of Article XVIII which pertains to police officers and firefighters.  
(Ord. of 6-5-95, § 1(B))

### **Sec. 12-3. Responsibility.**

The town shall furnish each new employee with an up-to-date copy of the Personnel Policy. It will be the responsibility of employees to read the policy and any amendments thereto.  
(Ord. of 6-5-95, § 1(C))

### **Sec. 12-4. Administration of policy.**

(a) The town manager and personnel director shall administer this policy, and they shall do so in the best interests of the Town of Brunswick.

(b) The personnel director shall have the following duties:

- \* Administer this policy under supervision of the town manager.
- \* Attend all meetings of the personnel board and serve as staff to the board.
- \* Prepare and recommend amendments to this policy, which may be adopted by the town council from time to time.
- \* Draft additional regulations or policies governing the town's relations with its employees to address matters not covered by this policy.

(Ord. of 6-5-95, § 1(D))

**Sec. 12-5. Severability clause.**

If any provision of this policy or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or application of this policy which can be given effect without the invalid provision or application, and for this purpose the provisions of this policy are severable.

The town manager may waive or modify any provision of this policy if the strict application of the policy to a particular situation is impractical or would result in hardships. Requests for a waiver or modification shall be considered only with respect to particular situations and a decision in one situation shall not create a precedent applicable to any other person or situation.

(Ord. of 6-5-95, § 1(E))

**Sec. 12-6. Amendments to the policy.**

The town may delete, amend, modify or change any or all of the provisions contained in this policy with or without prior notice to employees. The provisions set forth are not contractual, but rather are for the general guidance of the town in its relationship with its employees.

(Ord. of 6-5-95, § 1(F))

**Sec. 12-7. Personnel board; duties.**

The personnel board established by the Brunswick Town Charter shall assist in the hiring, promotional, and disciplinary processes of the police and fire departments as outlined in Article XVIII of this chapter. The board shall also act as an appeals board for disciplinary actions involving non-union employees as outlined in Article XIII of this chapter. The board shall represent the public interest in the improvement of personnel administration in the town service.

(Ord. of 6-5-95, § 1(G))

**Secs. 12-8--12-10. Reserved.**

## ARTICLE II.

### INITIAL EMPLOYMENT WITH THE TOWN

#### **Sec. 12-11. Equal employment opportunity.**

The policy of the Town of Brunswick is to provide equal opportunity to all employees and applicants without regard to religion, age, sex, race, color, ancestry, national origin, sexual orientation or physical or mental disability, except as a bona-fide occupational qualification. Refer to the town's affirmative action plan for more information.

(Ord. of 6-5-95, § 2(A); Ord. of 7-20-98)

#### **Sec. 12-12. Appointments on merit.**

The best qualified persons, who are available at the salary levels established for town employment, will be chosen for the position, with first preference being given to citizens of the Town of Brunswick when there are equally qualified candidates. To this end:

(Ord. of 6-5-95, § 2(B))

#### **Sec. 12-13. Vacancies.**

Vacancies in any position may be filled internally by posting, or from outside through advertising. Vacancies in positions above entry level may be filled by promotion whenever in the judgment of the personnel director and department head, it is in the best interests of the town to do so. In making promotions, the appointing authority shall give appropriate consideration to each applicant's qualifications, record of performance, and seniority, although the appointing authority retains the discretion to appoint the person he/she believes is best qualified for the position.

(Ord. of 6-5-95, § 2(C))

#### **Sec. 12-14. Applications.**

Applications for employment must be filed on forms prescribed by the town and available at the personnel director's office at the Municipal Building and/or meet the specified requirements as advertised. Such forms may require whatever information is deemed necessary and applications must be signed by the person applying unless the applicant is physically incapable of doing so. The town will only accept applications for positions when there are vacancies to be filled or when an eligibility list must be established (The police department is the only exception to this provision. The police department will accept applications at all times and will hold them for a one-year period).

(Ord. of 6-5-95, § 2(D))

#### **Sec. 12-15. Physical exams.**

After a conditional offer of employment is made, the prospective employee must successfully complete a pre-employment physical exam. The physical examination will focus on the applicant's ability to perform the essential functions for the position as identified in the position description, with or without accommodation. Some positions also require a psychological exam.

(Ord. of 6-5-95, § 2(E))

**Sec. 12-16. Bloodborne pathogen training.**

The town has identified certain positions as having occupational exposure to bloodborne pathogens such as Hepatitis B and HIV. The town provides training and also offers Hepatitis B vaccinations to employees in these positions. For more information, refer to the Bloodborne Pathogen Exposure Control Plan or contact the personnel director.

(Ord. of 6-5-95, § 2(F))

**Sec. 12-17. Compensation.**

It is the intent that town employees be paid on a basis that is commensurate with salaries and wages for comparable public and private work in the area and that will attract and retain well qualified employees. For this purpose, a job classification and pay plan, which assigns each position to a job class on the basis of the kind and level of duties performed, is prepared and updated from time to time by the personnel director and approved by the town council. Each position in the town is assigned to a job class on the basis of the kind and level of its duties, so that all positions in the same class are sufficiently alike to permit use of a single descriptive title, the same qualifications, the same requirements, the same test of competence, and the same pay scale. A job class may contain one or more positions. The pay plan shall specify a salary range, including minimum and maximum rates of pay for each position in the service. The position classification and pay plan is on file in the personnel director's office.

New employees normally will be hired at the minimum rate for the position except that under exceptional circumstances, the town manager may authorize appointment at a rate higher than the minimum if in his/her opinion doing so will enable the town to secure a qualified employee.

The town manager periodically shall review pay scales and recommend necessary adjustments for consideration of the town council.

(Ord. of 6-5-95, § 2(G))

**Sec. 12-18. Moving expenses.**

The town manager may authorize partial or full reimbursement of moving expenses to newly appointed department heads. Said reimbursement will be negotiated at the time of appointment and shall be consistent with the practices of other regional municipalities and companies.

(Ord. of 6-5-95, § 2(H))

**Sec. 12-19. Orientation.**

Each new employee shall be given an orientation to the town by the personnel director. Such orientation will include:

- (1) A review of the Personnel Handbook, including the Personnel Policy;
- (2) A review of the employee's job description;

- (3) A copy of the union contract (if applicable);
- (4) A review of benefits and the submission of completed application forms;
- (5) A discussion of payroll deduction options;
- (6) A tour of the Municipal Building and other department locations (optional);
- (7) A review of all required training, including sexual harassment training.

(Ord. of 6-5-95, § 2(I))

**Sec. 12-20. Probationary period.**

(a) *Initial appointment.* Upon appointment, all employees shall be employed on a probationary status for a period of one (1) year. During the probationary period, employees will be evaluated prior to the completion of the third, sixth, and twelfth months of employment. Upon completion of each appraisal, the department head will forward the review form to the personnel director who shall place it in the employee's personnel file. If in the judgment of the department head, the employee's performance is deemed unsatisfactory at any of the periodic appraisals, the employee shall be informed of any deficiencies and may be given an opportunity to correct them. An employee may be terminated at any time during the probationary period and such termination is not subject to review.

(b) *Promotional probation.* Employees who are promoted to a new position shall be placed on a twelve (12) month promotional probation and will be reviewed at the midpoint and again one (1) month prior to the end of the probation period. If the evaluation is found to be unsatisfactory, the employee may be removed at any time during the probationary period and demoted to his/her previous position or a comparable position, if available.

(Ord. of 6-5-95, § 2(J))

**Secs. 12-21--12-30. Reserved.**

**ARTICLE III.**

**EMPLOYMENT STATUS**

**Sec. 12-31. Positions and officials not subject to policy.**

Certain offices and positions of the town are not subject to the provisions of this Personnel Policy and this policy shall not apply to them:

- (1) All elected officials and any person appointed as a member of any town board or commission.
- (2) The town attorney.
- (3) Volunteer personnel and personnel appointed to serve without pay.

- (4) Consultants and counsel rendering temporary professional service pursuant to contracts.
  - (5) Employees of the school department.
  - (6) Independent contractors.
  - (7) Individuals with employment contracts.
  - (8) Interns.
- (Ord. of 6-5-95, § 3(A))

### **Sec. 12-32. Employment status.**

All employees shall be considered either:

- (1) *Regular employees:* Regular employees are those employees who have satisfactorily completed the probationary period for their current position.

*Regular full-time employees* are appointed to a budgeted position to work a standard work week of at least thirty-five (35) hours per week on a continuing and indefinite basis. Regular full-time employees are entitled to all benefits provided by this Personnel Policy.

*Regular part-time employees* are appointed to a budgeted position to work less than thirty-five (35) hours per week on a continuing and indefinite basis. Regular part-time employees who are regularly scheduled for a work week of at least twenty (20) hours shall accrue vacation, sick leave, holidays and other benefits on a pro-rata basis proportionate to the benefits available to a regular full-time employee in that position.

*Non-regular part-time employees* are appointed to a position to work less than twenty (20) hours per week on an indefinite basis. No benefits are available for non-regular part-time employees. Part-time employees who are regularly scheduled for a work week of less than twenty (20) hours are not entitled to any benefits, except as required by law.

- (2) *Probationary employees:* Probationary employees are those employees who are still in the probationary period following initial appointment or promotion to a regular full-time or part-time position. Probationary employees accrue benefits based on their status as full or part time employees.
- (3) *Temporary employees:* Temporary employees are appointed to work a standard work week or a part-time work week on a regular basis, but for a limited and defined period of time, usually not to exceed twelve (12) months. Extensions may be granted by the town manager. Temporary employees are not entitled to any benefits except as required by law.
- (4) *Seasonal employees:* Seasonal employment is an appointment to a temporary position in an industry designated by the State of Maine as a seasonal industry. The employee is terminated at

the end of the applicable season, and such employees are not entitled to any benefits, except as required by law.

- (5) *On-call or call employees:* On-call or call employment is an appointment to work on an intermittent and as-needed basis. Employees who are on-call do not have a regular schedule, but must be available to work as needed. On-call employees are not eligible for any benefits, except as required by law.

(Ord. of 6-5-95, § 3(B))

**Secs. 12-33--12-40. Reserved.**

## ARTICLE IV.

### WORK SCHEDULING

**Sec. 12-41. Hours of work.**

It is necessary, owing to the variations in the different services provided by the town, that there shall be variations in the hours worked per week in positions of the same class in different departments. The working hours for any department shall be established by the town manager and shall be designated as the standard work week for the department.

(Ord. of 6-5-95, § 4(A))

**Sec. 12-42. Scheduling of work.**

The town manager may consider requests for alternative work schedules when such schedules benefit both the town and the employee. Any such schedule shall be subject to change if in the opinion of the town manager, the interests of the town so require.

*Flexitime:* The town manager may authorize, upon approval of the department head, a flexible schedule for an employee.

*Job sharing:* The town manager may authorize, upon approval of the department head, position-sharing of a regular full-time position by two (2) or more employees. If eligible, benefits would be pro-rated for each employee based on hours worked.

*Part-time work:* The town manager may authorize, upon approval of the department head, regular full-time position to be filled on a part-time basis. Benefits would be pro-rated based on hours worked.

*Work-at-home:* The town manager may authorize, upon approval of the department head, an employee to conduct work at home.

(Ord. of 6-5-95, § 4(B))

**Sec. 12-43. Attendance at work.**

All employees are important in the effective operation of the town's services. It is important for employees to report to work and to be on-time. All department heads shall keep daily attendance records. If it is impossible for the employee to report to work or to be on-time, he/she should notify the supervisor prior to his/her scheduled work time so adjustments can be made. The employee's supervisor should be notified on a daily basis of the employee's absence unless a prior schedule of the time absent was given. Requests for leave shall be made on the form entitled "Leave of Absence Report." Employees shall submit requests for leave to their immediate supervisor. Department heads shall submit requests for leave to the town manager for approval. A copy of the report shall be submitted to the personnel director for placement in the employee's personnel file. (Ord. of 6-5-95, § 4(C))

#### **Sec. 12-44. Lunch periods.**

Lunch scheduling will be determined by department heads and will reflect the needs of each office and its coverage. (Ord. of 6-5-95, § 4(D))

#### **Sec. 12-45. Overtime.**

(a) *Standard work week.* Employees who work hours in addition to their designated standard work week will be compensated at their normal hourly rate for each hour worked up to forty (40) hours per week. Hours of work shall be defined as:

- (1) Hours actually worked;
- (2) Hours compensated for by holiday-based pay;
- (3) Hours compensated for by bereavement leave;
- (4) Hours compensated for by vacation pay;
- (5) Hours compensated for by sick leave.

(b) *Overtime.* All employees who work more than forty (40) hours in a work week and who are subject to the Fair Labor Standards Act overtime requirements, excluding police officers and firefighters, shall receive overtime compensation. Compensation for overtime services shall be paid at the rate of one and one-half (1 1/2) the employee's hourly rate. The personnel director, in consultation with the town manager, shall identify any employees exempt from the Fair Labor Standards Act overtime requirements.

(c) *Call back.* Employees called back to work shall receive a minimum of two (2) hours pay at the rate of one and one-half (1 1/2) times their base hourly rate. If the time worked is annexed to either the beginning or end of a regular shift, then the time worked should be charged as either straight time or if over the forty (40) hours limit, overtime. (Ord. of 6-5-95, § 4(E); Ord. of 11-19-01)

#### **Sec. 12-46. Compensatory time.**

(a) *Compensatory time for non-exempt employees:* At the discretion of the department head, and with the consent (in writing) of the employee before the work is performed, overtime may be compensated as compensatory time ("comp. time") rather than in wages.

Comp. time for overtime services will be awarded at the rate of one and one-half (1 1/2) hours for every hour an employee works above forty (40) hours in the work week.

An employee shall be paid for unused accrued compensatory time at the time employment is terminated, at the final normal hourly rate received by the employee.

Contemporaneous documentation is required to be kept and submitted to the town manager or department head on a monthly basis.

(b) *Compensatory time for department heads:* Given the many hours of additional time that department heads must work over the course of a year in order to meet work deadlines, attend various council and committee and/or board meetings, etc., this policy provides for a credit of forty (40) hours of compensatory time to be given to department heads annually on a fiscal year basis. The forty (40) hours shall be credited as of the July 1 of each year and any time not used by the following June 30 shall be lost. Request for use of compensatory time shall be approved by the town manager who shall keep a record of the use of such time by each department head. There shall be no payment for unused compensatory time at the time of termination of employment.

(c) *Compensatory time for: deputy public works director, deputy fire chief, deputy parks and recreation director, deputy finance director, natural resources planner, planner, codes enforcement officer, parks and recreation facilities manager, recreation assistant, and town facilities manager:* Given the many hours of additional time that the individuals in the above listed positions must work over the course of a year in order to meet work deadlines, attend various council and committee and/or board meetings, etc., this policy provides for a credit of forty (40) hours of compensatory time to be given to the individuals in these positions annually on a fiscal year basis. The forty (40) hours shall be credited as of July 1 of each year and any time not used by the following June 30 shall be lost. Request for use of compensatory time shall be approved by the above listed individual's respective department head who shall keep a record of the use of such time. There shall be no payment for unused compensatory time at the time of termination of employment.  
(Ord. of 6-5-95, § 4(F); Ord. of 2-16-99; Ord. of 1-18-00(2); Ord. of 10-1-01; Ord. of 5-31-06(1), § 1)

#### **Sec. 12-47. Payroll/pay period.**

Payroll is processed by the finance department. Time sheets must be completed and approved by supervisors as scheduled by each department and submitted as required by the finance department.  
(Ord. of 6-5-95, § 4(G))

#### **Secs. 12-48--12-50. Reserved.**

### **ARTICLE V.**

### **WORK CONDUCT AND RESPONSIBILITIES**

**Sec. 12-51. Conduct of employee.**

A positive attitude, proper courtesy, honesty, and professional conduct on and off the job are important to the individual as well as to the town. Neatness of work is also important. All employees are engaged in public relations work. Some deal directly with the public; others, while not in personal contact, are performing under the public eye. All employees of the town, regardless of whether contacts are direct or indirect, shall be courteous, efficient, and helpful in all their work assignments.

(Ord. of 6-5-95, § 5(A))

**Sec. 12-52. Confidentiality.**

Many town employees have access to confidential information pertaining to persons or property in the town. Employees shall not use this privileged information to their private advantage or to the advantage of anyone else. No employee may release any information which is not required to be released under the "Right To Know" law, 1 MRSA Sections 401--410.

(Ord. of 6-5-95, § 5(B))

**Sec. 12-53. Dress code.**

Department heads shall determine what is appropriate attire in the work place. Employees are expected to wear clothing suitable to their job and work site. The employees' clothing and appearance should be neat, clean, in good business taste, and not constitute a safety hazard.

(Ord. of 6-5-95, § 5(C))

**Sec. 12-54. Conflict of interest.**

No town employee who is authorized to make purchases shall have any interest either directly or indirectly in any contract with the town except through a sealed bid process.

(Ord. of 6-5-95, § 5(D))

**Sec. 12-55. Political activity.**

While working for the town, employees may seek or accept nomination or election to any office in the town government, however, no employee may hold any elective town office while employed by the town. Therefore, any employee elected to town office shall resign prior to taking office.

Employees shall refrain from using their influence publicly in any way for or against any candidate for elective office in the town government. Town employees shall not circulate petitions or campaign literature for elective town officials, or be in any way concerned with soliciting or receiving subscriptions, contributions, or political service from any person for any political purposes pertaining to the town government. This rule is not to be construed to prevent town employees from becoming, or continuing to be, members of any political organization, from attending political meetings, from expressing their views on political matters, or from voting with complete freedom in any local, state or national election.

(Ord. of 6-5-95, § 5(E))

**Sec. 12-56. Receipt of gifts.**

Town employees are prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loan, or any other item of monetary value from any person, within or outside town employment, whose interests may be affected by the employees' performance or nonperformance of their official duties. Acceptance of nominal gifts, such as food and refreshments in the ordinary course of business meetings or unsolicited advertising or promotional materials such as pens, note pads, calendars, etc., is permitted.  
(Ord. of 6-5-95, § 5(F))

**Sec. 12-57. Outside work.**

Town employees may engage in outside employment, subject to the conditions stated herein. However, no employee may engage in outside employment which in any manner interferes with the proper and effective performance of the duties of their position, results in a conflict of interest, or if it is reasonable to anticipate that such employment may subject the town to public criticism or embarrassment. Employees must inform their department head of their outside employment. If the town manager determines that such outside employment is disadvantageous to the town, based on the above criteria, he/she shall notify the employee in writing that the outside employment must be terminated. Any employee who engages in employment outside their regular working hours shall be subject to perform his/her regular duties first.  
(Ord. of 6-5-95, § 5(G))

**Secs. 12-58--12-60. Reserved.**

**ARTICLE VI.**

**RECOGNITION AND PROMOTION**

**Sec. 12-61. Job evaluations.**

It is the policy of the town that performance evaluations will be conducted for all employees on at least an annual basis. For more information, refer to the Performance Evaluation Manual or contact the personnel director.  
(Ord. of 6-5-95, § 6(A))

**Sec. 12-62. Annual cost of living adjustment.**

As part of the municipal budget, the town council may grant a general increase in compensation to all employees annually as an economic adjustment (cost of living). In determining the increase, the council may consider the Consumer Price Index, the general increase awarded by Brunswick area firms, increases in other similar municipalities, and other relevant factors.  
(Ord. of 6-5-95, § 6(B))

**Sec. 12-63. Merit.**

The town is making a commitment to merit evaluation, linking non-union employees' pay, in part, to the attainment of stated performance standards. For additional information, refer to the Performance Evaluation Manual or contact the personnel director.

(Ord. of 6-5-95, § 6(C))

**Sec. 12-64. Promotion.**

(a) Vacancies in positions above entry level may be filled by internal posting and promotion, or by advertisement and recruiting of outside applicants. When such a position is advertised, current employees may compete for the promotional position and will be given preference among equally qualified applicants for the position.

(b) Current employees may be given training opportunities to qualify for the promotion. Training to improve an employee's skills to qualify them for promotion may be done prior to, or post-promotion in accordance with the town's Educational Assistance Plan.

(Ord. of 6-5-95, § 6(D))

**Sec. 12-65. Acting appointments.**

Employees may be appointed to serve in an acting capacity during a vacancy in a superior position. Any change in the employee's compensation shall be arranged at that time by the town manager.

(Ord. of 6-5-95, § 6(E))

**Sec. 12-66. Transfers.**

Transfers are assignments to another position and may be initiated by the town manager, with the approval of the department head, for the good of the town, or initiated by the employee, subject to the approval of the department heads and manager. The employee's date of hire will not change.

(Ord. of 6-5-95, § 6(F))

**Sec. 12-67. Training opportunities.**

The personnel director shall encourage the improvement of service by providing employees with opportunities for training for specific jobs, for advancement, or for general fitness for public service. Refer to the town's Training, Development and Educational Assistance Plan or contact the personnel director for more information.

(Ord. of 6-5-95, § 6(G))

**Secs. 12-68--12-70. Reserved.**

**ARTICLE VII.**

**FRINGE BENEFITS**

**Sec. 12-71. Health insurance.**

(a) The town makes available to eligible employees a group health insurance plan through the Maine Municipal Employees Health Trust.

(b) Regular full time employees and part time employees who work more than twenty (20) hours a week on a year-round basis, are eligible to participate. An employee must apply for coverage under the insurance plan.

(c) Eighty-five (85) percent of the premium for a regular full time employee, spouse and/or family is paid by the Town of Brunswick, and fifteen (15) percent is paid by the employee in the form of the payroll deduction on a pre or post-tax dollar basis. Health insurance premium payment may be pro-rated for regular part-time employees regularly scheduled for more than twenty (20) hours per week on a yearround basis, based on the hours worked for that particular position. Regular part-time employees also must earn a sufficient amount in each week to meet the required payroll deduction.

(d) Employees who wish to become subscribers of the plan offered by the town should be aware of the requirements of the plan. The Maine Municipal Employee's Trust is administered by the Maine Municipal Association and requires that applications for benefit be made through the employer. These forms, as well as other relevant information, are made available to employees through the personnel director's office.

(e) Effective January 1, 2000, the town shall offer a pre-tax medical reimbursement program for employees who request such benefits, in accordance with the Town of Brunswick Flexible Benefit Plan. The town shall outsource this program.

(f) Effective June 1, 2006, the town shall offer a stipend in lieu of health insurance to reimburse eligible employees for health insurance buy-back. Proof of alternate insurance is required. Payment changes yearly based on health insurance costs. Employees who are married to another town employee covered by the health insurance plan shall not be eligible for the stipend.  
(Ord. of 6-5-95, § 7(A); Ord. of 7-19-99(1); Ord. of 5-31-06(1), § 2)

## **Sec. 12-72. Retirement.**

Employees are eligible to receive benefits from the following retirement plans:

- (1) *Maine State Retirement System:* The Town of Brunswick became a participating district in the Maine State Retirement System (MSRS) July 1, 1950. Any employee who meets the requirements of the Maine State Retirement System is eligible to join. Each member must contribute 6.5% of his/her wages, the contribution being in the form of a deduction from each pay check. The town in turn contributes funds, which are based on an actuarial assessment of the cost of the defined benefit plan.

Effective July 1, 2000, the town will adopt the necessary changes to implement COLA benefits (cost of living adjustments) for all regular, full-time employees enrolled in the MSRS. The COLA benefit will be calculated using future service only, i.e., for service earned after July 1, 2000. There will not be any COLA benefit for earnable compensation prior to July 1, 2000.

Any employee terminating employment with the town before retirement or terminating membership in the system may upon proper application withdraw his/her contributions, subject to compliance with applicable laws.

Information concerning Maine State Retirement may be obtained from the Office of the Maine State Retirement System in Augusta, or from the personnel director.

- (2) *Social Security/Medicare*: Social Security benefits were adopted July 1, 1959 and now extend to all regular employees of the Town of Brunswick, except for personnel of the fire department. Employees of the fire department hired after 1986 shall contribute to Medicare only. Payroll deductions are matched with town funds.

Information concerning Social Security benefits may be obtained from the Portland office of the Social Security Administration.

(Ord. of 6-5-95, § 7(B); Ord. of 7-17-00(1))

### **Sec. 12-73. Deferred compensation plans.**

The town offers to administer payroll deductions for two (2) deferred compensation plans. The Section 457 plans enable employees to defer a portion of their compensation, and thereby the tax, until retirement or withdrawal.

When an employee chooses an alternative retirement plan instead of MSRS, the town shall contribute two (2) times the employee contribution, to a maximum of five (5) percent of the individual's gross weekly salary effective July 1, 2001, into any 457 plan currently offered by the Town of Brunswick. Effective July 1, 2002, the town shall contribute two times the employee contribution, to a maximum of six (6) percent of the individual's gross weekly salary into any 457 plan currently offered by the Town of Brunswick. If the employee chooses to participate in both the MSRS and an alternative retirement plan, the town will not be responsible for contributing to the optional plan listed above.

(Ord. of 6-5-95, § 7(C); Emergency/Regular Ord. of 1-20-981; Ord. of 7-19-99(2); Ord. of 7-17-00(2); Emergency/Regular Ord. of 9-4-01)

### **Sec. 12-74. Life insurance.**

The town offers life insurance through two (2) options: (1) Maine Municipal Employees Health Trust; (2) Maine State Retirement System. For information on life insurance, see the personnel director.

(Ord. of 6-5-95, § 7(D))

### **Sec. 12-75. Disability insurance.**

The town administers payroll deductions for the payment of premiums (paid on a one hundred (100) percent basis by the employee) for coverage in the Maine Municipal Employee Health Trust Income Protection Plan. The plan offers a range of coverage options for non-work-related disabilities which result in a loss of income for the employee. Employees must be regularly scheduled for at least twenty (20) hours per week to be eligible for this insurance. For details, see the personnel director.

(Ord. of 6-5-95, § 7(E))

### **Sec. 12-76. Dental insurance.**

Payroll deduction for dental insurance premiums is offered by the town to those employees eligible to

participate in a dental plan. There is no employer contribution to this benefit. For more information about eligibility, see the personnel director.  
 (Ord. of 6-5-95, § 7(F))

**Secs. 12-77--12-80. Reserved.**

**ARTICLE VIII.**

**OTHER BENEFITS**

**Sec. 12-81. Vacation.**

(a) *Regular full-time employees.* Each regular full-time employee shall be awarded annual vacation time with pay. Requests for leave must be approved by the employee's supervisor who shall take into consideration adequate staffing requirements. In accordance with the employee's current term of continuous employment based upon the standard work weeks depicted below, vacation shall be awarded as follows:

TABLE

Avg. hours worked per week	20	35	37.5	40
For years 1--5, accrue at this rate: (2 wks/yr)				
Wkly. Accum. (in hours)	.769	1.346	1.442	1.538
For years 6--13 accrue at this rate: (3 wks/yr)				
Wkly. Accum. (in hours)	1.154	2.019	2.163	2.308
For years 14--19 accrue at this rate: (4 wks/yr)				
Wkly. Accum. (in hours)	1.538	2.692	2.885	3.077
For years 20+, accrue at this rate: (5 wks/yr)				
Wkly. Accum. (in hours)	1.923	3.365	3.606	3.846

- (1) If a holiday falls within the employee's vacation period, the employee will not be charged vacation for such holiday.
- (2) Employees will be eligible to use any accrued vacation time as earned, subject to the approval of the supervisor or department head.
- (3) No employee shall be entitled to work their vacation with pay, except in case of emergency conditions.
- (4) Employees, regardless of length of service, may accrue up to thirty (30) days of vacation leave. If an employee accumulates more than thirty (30) days vacation, he/she will lose all the time in

excess of thirty (30) days. Due to unusual circumstances, the town manager may authorize an exception to this requirement.

- (5) The entire system will be based on the employee's anniversary date rather than calendar year. On the anniversary date in which the employee progresses to a new, higher rate (on anniversary year numbers 6, 14, and 20) he/she will begin accruing vacation at the new, higher rate, which may be used as accrued.
- (6) Accrued vacation leave shall be paid to an employee upon separation from service, or to his/her beneficiary or estate upon death.
- (7) Computation will be made by decimals, rounded to three (3) points, i.e., 1.346 hours to 5.833 hours, and shall be calculated as of the last day of each pay period.

(b) *Regular part-time employees.* Regular part-time employees will be awarded vacation on a pro-rata basis proportionate to the hours worked.  
(Ord. of 6-5-95, § 8(A); Ord. of 5-31-06(1), § 3)

#### **Sec. 12-82. Holidays.**

Paid holidays for employees of regular full-time standing (and regular part time employees on a pro-rata basis) shall be as follows:

- (1) New Year's Day.
- (2) Martin Luther King, Jr. Day.
- (3) President's Day.
- (4) Patriot's Day.
- (5) Memorial Day.
- (6) Fourth of July.
- (7) Labor Day.
- (8) Columbus Day.
- (9) Veteran's Day.
- (10) Thanksgiving.
- (11) Day after Thanksgiving.
- (12) Christmas.

(13) Personal day.

If a holiday falls on a Sunday, the following Monday shall be deemed a holiday. When a holiday occurs on a Saturday, the preceding Friday shall be deemed a holiday.

An employee may elect to take one (1) "Personal Day" upon approval of the department head. The personal day must be taken prior to the end of the fiscal year, and days can not be accumulated. (Ord. of 6-5-95, § 8(B))

**Sec. 12-83. Sick leave.**

Sick leave may be used for personal illness or physical incapacity of such a degree as to render the employee unable to perform the duties of his/her position, or for a personal medical or dental appointment.

Sick leave, limited to five (5) days (defined as a standard work day), per fiscal year, may be granted to an employee because of the illness of a member of the employee's immediate family. "Immediate family" shall mean the following individuals living in the employee's household: spouse, father, mother, child, step-child, significant other, or other family member living in the same household. Exceptions may be made at the discretion of the department head for approval of use of sick leave under this section for immediate family members living outside the employee's household.

Sick leave will be earned as follows:

TABLE

Avg. hours worked per week	20	35	37.5	40
Wkly. Accum. (hours)	.923077	1.615385	1.730769	1.846154

After five (5) days of continuous use of sick leave time, the town manager may, as condition precedent to the continuation of sick pay, require a certificate from the employee's physician. The physician visit shall be at the employee's expense.

An employee, upon retirement or separation in good standing upon reaching age sixty (60) or after twenty (20) years of full-time employment by the Town of Brunswick, will be paid an amount equal to wages for one-third of the number of days of accrued sick leave upon the date of separation.

In the event of the death of an employee, unused accrued sick leave shall be paid to the surviving spouse, if none, then to the trustee of minor children if any, or other beneficiary, on the same basis established in the preceding paragraph.

Probationary employees shall be entitled to utilize any accrued sick leave from the date of hire.

Sick leave may be taken on an hourly basis as needed.

Sick leave may be accumulated to a maximum of one hundred thirty-two (132) workdays. If an employee is on sick leave, credit will still accrue.

Regular part-time employees accrue sick leave on a pro-rata basis of hours worked.

Misuse of sick leave: Use of sick leave on false claims of sickness or disability, or falsification of proof to justify such sick leave, shall be cause for disciplinary action that is deemed appropriate by the town manager. Therefore, it may not be used for any other purpose except those specifically permitted under this policy. (Ord. of 6-5-95, § 8(C); Ord. of 5-31-06(1), § 4)

**Sec. 12-84. Inclement weather.**

Refer to the Town's Inclement Weather Policy.  
(Ord. of 6-5-95, § 8(D))

**Secs. 12-85--12-90. Reserved.**

**ARTICLE IX.**

**INJURY ON THE JOB**

**Sec. 12-91. Reporting and treatment of the injury.**

(a) *Reporting.* All injuries sustained in the course of employment shall be immediately reported to the employee's supervisor or department head as a requirement for leave or compensation. The employee's supervisor must complete a first report of occupational injury or illness.

(b) *Treatment.* Pursuant to state law, the town requires that treatment of an occupational injury or illness be provided by the health care provider of the town's choice within the first ten (10) days following the submission of a first report. The appointment for an evaluation and treatment may be made by the supervisor or personnel director. (If the injury is serious, the employee should go immediately to the nearest hospital emergency room for treatment; an assessment by the town's health care provider can be done at a later date.) An employee may choose to go to their own physician, but should understand that payment for these visits will not be made by the town through its workers compensation plan unless the employee has successfully petitioned the workers compensation commission to see a physician of the employee's choice.  
(Ord. of 6-5-95, § 9(A))

**Sec. 12-92. Worker's compensation payment.**

(a) The Town of Brunswick provides worker's compensation insurance coverage for all employees. It is the responsibility of any injured employee to assist his/her supervisor in completing a first report of occupational illness or injury.

(b) Any employee who sustains a personal injury or compensable illness arising out of and in the course of his/her employment shall be paid during each week of total incapacity resulting from the injury an amount sufficient, when added to the weekly payment of the worker's compensation paid within the laws of the

state, to equal one hundred (100) percent of his/her regular salary or normal wage, for the twenty (20) weeks immediately following the injury.

(c) Any injured employee may request, on forms provided by the town, that the town begin full payment of salary immediately to insure there will be no delay in workmen's compensation benefits, provided the employee, stipulates to reimbursement of such payments to the town upon receipt of worker's compensation payments.

(d) Such supplemental payments shall not be continued beyond twenty (20) weeks except upon order passed by the town council. No supplemental payments shall be made in any instance when, in the opinion of the department head and the town manager, the accident occurred as a result of intoxication, willful intent, violation of rules and regulations by the employee, or while the employee is in the employ of any other person, firm, or corporation. The Town of Brunswick shall be entitled to recoup any such supplemental payments made to an employee who is determined by workers compensation to be ineligible for coverage. An employee may elect to charge lost time to either sick leave, vacation, or compensatory time if the employee has accrued such time, otherwise, the employer is authorized to make payroll deductions to recover the amount paid to the employee.

(Ord. of 6-5-95, § 9(B))

#### **Sec. 12-93. Light duty.**

Due to a work-related injury or illness, an employee, upon recommendation from the treating physician, shall be given light duty for the period of time the condition exists provided that light duty is available. Light duty assignments must be approved by the town manager or personnel director, and the department head. The employee must provide a medical request from the treating physician explaining the need for light duty, the estimated duration of the need for light duty, and what restrictions on working assignments apply.

(Ord. of 6-5-95, § 9(C))

#### **Secs. 12-94--12-100. Reserved.**

### **ARTICLE X.**

#### **LEAVE OF ABSENCES**

#### **Sec. 12-101. Leaves of absence with pay.**

A leave of absence with pay is allowed upon the approval of the appropriate department head. Special leave with pay shall be granted to regular employees as follows:

- (1) *Bereavement.* An employee shall be allowed:

A maximum of five (5) working days off with pay for the death of a parent, spouse, significant other (defined as having resided in the same household), or a child/stepchild.

A maximum of three (3) working days off with pay for the death of other family members to include the following: sister, brother, grandparent, grandchild, stepparent, father-in-law, mother-

in-law, legal guardian.

One (1) day off with pay will be allowed to attend the funeral of an aunt or uncle, when the funeral occurs on a scheduled work day.

One (1) day with pay may be used for attendance at a funeral or service at the discretion of the department head.

In the event the funeral or service is held after the third or fifth day following the death of a person for which bereavement leave is granted, one (1) day of bereavement leave may be reserved for attendance at the funeral or service.

- (2) *Jury duty or witness.* An employee shall be granted a leave of absence any time they are required to report for jury service or when subpoenaed to testify in court.
- a. The town shall pay the employee the difference between the amount of regular pay and the juror's or witness' fee. The employee will continue to be paid his/her full wage during the term of the leave, provided the employee agrees to reimburse the town in the amount received for witness fees or jury pay.
  - b. When the term of the jury duty leave is complete, the employee shall report to the town the number of regular working days he/she was required to serve as a juror or witness.
  - c. Any juror's pay or witness fee received for services on a regular work day shall be deducted from the following week's wages.
  - d. The amount to be deducted will be determined by multiplying the number of regular working days the employee was required to serve as a juror or witness by the rate of compensation established by 14 M.R.S.A. § 1215 or by 16 M.R.S.A. § 251.
  - e. Any juror's pay or witness fee received for service on a regular non-working day will not be deducted from the employee's wage.
  - f. If an employee is excused by the court for any reason, he/she shall return to work promptly thereafter except if arrangements have been made for a replacement for a given work period.

(Ord. of 6-5-95, § 10(A))

### **Sec. 12-102. Leaves of absence without pay.**

- (a) *Family medical leave.* Refer to the Town of Brunswick Family Medical Leave Policy.
- (b) *Regular leave of absence.* A regular employee in good standing may be granted a leave of absence without pay by the town manager upon recommendation of the department head concerned. Such leave of absence without pay shall not exceed one (1) year in length and shall only be granted when it appears because of the past record of the employee, or because of the purpose for which the leave is requested, that it is

in the best interest of the town to grant the leave. An employee who does not return from the leave of absence as scheduled and approved shall be terminated as of that date.

An employee that is granted a leave of absence shall retain all rights to accrued vacation and accrued sick leave, but shall not earn vacation or sick leave, or accrue seniority, while on a regular leave of absence.

(c) *Reserve service leave.* Under the Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA), the town will grant reserve service leave to regular full and part-time employees for active duty, active duty for training, initial active duty for training, inactive duty for training, full time National Guard duty, and absence for examinations as required in any "uniformed service" as defined.

Cumulative length of service may not exceed five (5) years, although there are specific exceptions to this five-year limitation.

A person's separation from military service must be under honorable condition in order for the person to be entitled to reemployment rights.

Time limits for returning to work depend on the duration of the person's service. Documentation may be requested by the town.

For specific information on USERRA, contact the personnel director.  
(Ord. of 6-5-95, § 10(B))

**Secs. 12-103--12-110. Reserved.**

## **ARTICLE XI.**

### **DISCIPLINARY ACTION AND GRIEVANCE**

#### **Sec. 12-111. Disciplinary action.**

(a) Whenever, in the supervisor's judgment, employee performance, attitude, work habits, or personal conduct fall below acceptable levels, a disciplinary action may take place. Disciplinary action may include the following, but not necessarily in order:

- (1) Oral reprimand.
- (2) Written reprimand.
- (3) Suspension (with or without pay; notice to be given in writing).
- (4) Demotion (Only if a demoted position is available. Notice to be given in writing).
- (5) Reduction in pay (within salary range in pay plan; notice to be given in writing).
- (6) Discharge (notice to be given in writing).

(b) In determining the appropriate disciplinary action, consideration shall be given to the severity of the performance problem, misconduct or other issues, and prior disciplinary action, if any, against the employee. Repeated misconduct or continuing performance problems may be considered cumulatively and subject to more severe discipline, even if the conduct or performance problems vary in nature or severity.

(c) Whenever possible, an oral reprimand will be given in a manner that will not embarrass the employee before other employees or the public.

(d) Except when an employee's conduct creates a threat to the safety of the employee or others or to the integrity of the department's operations, an employee shall be provided notice in writing that serious disciplinary action (i.e., suspension, demotion, reduction in pay or discharge) is contemplated. The notice shall inform the employee of the reason for the potential discipline and of a time and place for a meeting with the employee's supervisor, at which time the supervisor and the employee will discuss the matter and the employee will have an opportunity to present his/her views to the supervisor. The employee shall be given notice of any disciplinary action imposed pursuant to this paragraph in writing, including the reasons for the decision, within seven (7) working days after meeting with the supervisor.

(e) Disciplinary actions, other than discharge, shall be subject to the grievance procedure beginning at Step 2 or Step 3, as appropriate, and advisory appeal to the personnel board as specified in sections 12-112 and 12-113 hereof, provided that a written appeal must be filed with the personnel board within five (5) working days after the town manager's decision. Disciplinary discharges are governed by section 12-114 hereof. (Ord. of 6-5-95, § 11(A))

### **Sec. 12-112. Grievance procedure.**

An employee will have the right to file a grievance as a result of a misunderstanding, disagreement, or complaint between the employee and the employer arising out of the belief on the part of the employee that he/she is being treated unfairly in regard to the terms or conditions of employment.

*(Step 1):* The employee will raise the grievance with his/her immediate supervisor. The supervisor shall make an effort to settle the grievance within three (3) working days after its presentation.

*(Step 2):* If after the Step 1 grievance is presented to the supervisor, the employee is still dissatisfied, the employee may present the grievance within three (3) working days to the department head, who shall attempt to settle the grievance within one (1) week after it is presented.

*(Step 3):* If a satisfactory and timely solution is not reached at the department head level, the employee may then present the grievance in writing to the town manager within five (5) working days of the department head's decision. The manager shall give a written reply within seven (7) working days.

If the employees still considers the grievance unresolved, the employee may file a written request with the personnel board for a hearing; the request shall be made within five (5) working days after the manager's reply.

(Ord. of 6-5-95, § 11(B))

### **Sec. 12-113. Appeal to personnel board.**

(a) *Hearing before personnel board.* If the employee requests a hearing within the prescribed period, the chair of the personnel board shall set a time and place for hearing. The hearing must be held within seven (7) working days after the request for a hearing is filed with the personnel board. At the discretion of the employee, the hearing may be private or public, and the employee may be represented by counsel.

(b) *Findings of personnel board.* Within seven (7) days following the hearing, which may be informal, the personnel board shall issue written findings and a recommended decision, which may recommend a course of action or a change in the earlier decision, copies of which shall be provided to the employee and the town manager. The board's findings and recommendations are advisory in nature, and the town manager may affirm the original action or modify it pursuant to the board's recommendations. The final decision of the town manager must be made after receipt of the findings and recommendations of the personnel board; the town manager's decision is final and not subject to further appeal.

(Ord. of 6-5-95, § 11(C))

### **Sec. 12-114. Disciplinary discharge.**

This section shall not apply to the discharge of a probationary employee, or the town manager, or to layoffs and reductions in force, whether by elimination of positions or separation of employees, or any other termination not attributable to cause. The procedure for removal of the town manager shall be as specified in Article III, Section 304 of the Charter.

- (1) *Discharge.* An employee, other than the town manager, may be terminated for cause whenever in the judgment of the appointing authority the employee's work or misconduct so warrants, subject to the appeals provisions of this policy. The appointing authority for department head level positions is the town manager; for all other positions it is the department head. Prior to making a decision to terminate an employee, the department head or town manager shall inform the affected employee of the action under consideration, along with the reasons therefore, and shall provide the employee an opportunity for an informal meeting to discuss the performance problems, misconduct or other circumstances at issue.

If a department head decides to terminate an employee, the employee shall be informed of the decision and the reasons therefore, as well as of his/her rights to appeal as specified in paragraph (2) herein, and shall be treated as suspended with pay until such time as the appeal period expires or the appeal is decided by the town manager. An unappealed decision shall become final and fully effective upon expiration of the appeal period.

If the town manager decides to terminate a department head level employee, the decision shall be referred to the town council for ratification. In the meantime, the employee shall be treated as suspended with pay unless the town manager's decision specifies differently. If the town council does not agree with the decision to terminate, the employee shall be immediately reinstated. If the town council ratifies the manager's decision, the employee shall be so informed, in writing and shall also be informed of his/her rights to appeal as specified in paragraph (3) herein. The employee shall be treated as suspended with pay until such time as the appeal period expires, or

the appeal is decided by the personnel board. An unappealed decision shall become final and fully effective upon expiration of the appeal period.

- (2) *Appeals of department head decisions:* An employee may appeal the decision of the department head to the town manager in writing within five (5) working days after the decision is issued. There shall be a hearing before the town manager, at which the employee may appear, be represented by counsel, present evidence on his/her own behalf and cross-examine any witnesses presented by the department head. Within seven (7) working days after the hearing, the town manager shall issue a written decision setting forth the reasons for his/her decision and make findings of fact and shall provide a copy to the employee and the department head. The decision may affirm, reverse, or modify the department head's decision and shall be effective immediately unless otherwise specified in the decision.
- (3) *Appeals of the town manager's decisions:* A department head level employee may appeal the decision of the town manager to the personnel board in writing within five (5) working days after the decision is ratified by the town council. There shall be a hearing before the personnel board, at which the employee may appear, be represented by counsel, present evidence on his/her own behalf and cross-examine any witnesses presented by the town manager. Within seven (7) working days after the hearing, the personnel board shall issue a written decision setting forth the reasons for the decision and making findings of fact and shall provide a copy to the employee and the town manager. The decision may affirm, reverse or modify the town manager's decision and shall be effective immediately unless otherwise specified in the decision.

(Ord. of 6-5-95, § 11(D))

**Secs. 12-115--12-120. Reserved.**

## **ARTICLE XII.**

### **DISCONTINUING EMPLOYMENT**

**Sec. 12-121. Failed probationary period.**

A probationary employee may be terminated at any time during, or at the end of, the probationary period.

(Ord. of 6-5-95, § 12(A))

**Sec. 12-122. Lay-offs.**

Any permanent employee may be laid off whenever it is necessary because of a shortage of funds, lack of work, or related reasons which do not reflect discredit upon the employee. Lay-offs shall be on the basis of seniority in each particular classification within each department so far as possible. Temporary employees may be laid off at any time by the department head without consideration of seniority.

(Ord. of 6-5-95, § 12(B))

**Sec. 12-123. Termination.**

Termination is the permanent separation of an employee from service due to death, disability, discharge, resignation, layoff, or retirement.  
(Ord. of 6-5-95, § 12(C))

**Sec. 12-124. Loss of job as result of loss of license or certification.**

If it is a requirement for an employee in a specific position to possess a valid license and/or class of license or certification, then it shall be a condition of employment for that employee to maintain such a license and/or certification. Failure to do so may result in job loss.  
(Ord. of 6-5-95, § 12(D))

**Sec. 12-125. Resignation; sufficient notice.**

(a) To resign in good standing, a full-time employee must submit his/her resignation in writing at least ten (10) working days prior to the effective date of their resignation.

(b) The town manager may, after consultation with the department head, provide the employee with ten (10) working days pay in lieu of the required notice, in which case the employee's resignation shall become effective upon notification to that effect.  
(Ord. of 6-5-95, § 12(E))

**Sec. 12-126. Exit interview.**

Exit interviews may be requested of employees that are departing their positions. The conversation with these employees is to ensure their knowledge of their rights and to learn their views of the town and/or department. This information will be shared with the department head and the town manager.  
(Ord. of 6-5-95, § 12(F))

**Secs. 12-127--12-130. Reserved.**

**ARTICLE XIII.**

**EDUCATIONAL TRAINING AND ASSISTANCE**

**Sec. 12-131. Generally.**

Refer to the Town of Brunswick Training, Development and Educational Assistance Plan.  
(Ord. of 6-5-95, § 13)

**Secs. 12-132--12-140. Reserved.**

**ARTICLE XIV.**

**SEXUAL AND VERBAL HARASSMENT POLICY**

**Sec. 12-141. Generally.**

Refer to the Town of Brunswick Sexual and Verbal Harassment Policy.  
(Ord. of 6-5-95, § 14)

**Secs. 12-142--12-150. Reserved.**

## **ARTICLE XV.**

### **GENERAL POLICIES OF THE TOWN**

#### **Sec. 12-151. Drug use free workplace statement.**

It is the policy of the Town of Brunswick to create and maintain a drug-free environment in the workplace as required by the Drug-Free Work Place Act of 1988. The use of controlled substances as identified in schedules I through V of Section 202 of the Federal Controlled Substances Act (including marijuana, cocaine, heroin, morphine, barbiturates and amphetamines) is inconsistent with the professional and responsible behavior expected of employees, subjects all employees and visitors to our facilities to unacceptable safety risks, and undermines our ability to operate effectively and efficiently.

Therefore, employees of the Town of Brunswick are strictly prohibited from engaging in the unlawful manufacture, distribution, possession, sale or use of controlled substances at the workplace or while conducting town business off-premises. As a condition of employment, employees must abide by the terms of this statement and shall notify the personnel director of any criminal drug statute conviction for a violation occurring in the work place no later than five days after such conviction. The town shall notify any federal agency with whom it has a contract or from whom it has received a grant of the conviction within ten (10) days of receiving the notification. Employees who violate this prohibition are subject to disciplinary action, up to and including termination. Convicted employees may in addition, or as an alternative, be required to participate in satisfactory manner in a drug abuse assistance or rehabilitation program.

Employees are further prohibited from being under the influence of controlled substances, or under the influence of any prescription drugs which impair the employee's ability to perform his/her job safely or properly.

Any supervisors noting unusual behavior patterns which appear to be drug or narcotic related should report their observed behavior immediately to the department head, personnel director or town manager.

The town has other obligations with respect to the federal agencies with whom it has grants/contracts, including the requirements to distribute the policy to each employee involved in the grant/contract.  
(Ord. of 6-5-95, § 15(A))

#### **Sec. 12-152. Alcohol use.**

The town prohibits the use of alcohol on town premises or while conducting town business off town premises and further prohibits employees from being under the influence of alcohol while on the job or performing town business.  
(Ord. of 6-5-95, § 15(B))

**Sec. 12-153. Expense reimbursement.**

Refer to the Town of Brunswick Travel Policy.  
(Ord. of 6-5-95, § 15(C))

**Sec. 12-154. Recycling.**

The Town of Brunswick has a mandatory Recycling Ordinance. Therefore, employees shall participate in the recycling program while at work. Questions regarding proper recycling procedures may be directed to the public works department.

(Ord. of 6-5-95, § 15(D))

**Sec. 12-155. Seatbelt policy.**

Town employees shall wear seatbelts at all times while driving in town vehicles and/or engaged in town business.

(Ord. of 6-5-95, § 15(E))

**Sec. 12-156. Smoking policy.**

Smoking is prohibited in all town buildings. There is a designated outdoor smoking area for the Municipal Building which has been located away from the building so that smoke does not enter the building through open windows and doors. See the personnel director for the location. All other town buildings have similar designated outdoor smoking areas. See your supervisor for locations. For assistance in smoking cessation, contact the town's wellness coordinator.

(Ord. of 6-5-95, § 15(F))

**Sec. 12-157. Suggestions.**

Refer to the Town of Brunswick Suggestion Incentive Policy.  
(Ord. of 6-5-95, § 15(G))

**Sec. 12-158. Use of town vehicles.**

Refer to the Use of Town Vehicles Policy.  
(Ord. of 6-5-95, § 15(H))

**Sec. 12-159. Whistleblowing.**

Employees can not be disciplined or dismissed from their jobs if they participate in whistleblowing activities as protected by Title 26 MRSA, Section 839.

(Ord. of 6-5-95, § 15(I))

**Secs. 12-160. Reserved.**

## **ARTICLE XVI.**

### **PERSONNEL ISSUES**

#### **Sec. 12-161. Personnel records.**

The personnel director shall maintain a personnel record for each employee in the service of the Town of Brunswick. It will contain the employee's name, address, phone number, the title of the position held, the department to which the employee is assigned, salary, changes in employment status, employee performance reviews, and such other information as may be considered pertinent. Medical information shall be maintained in a separate file.

The employee may have access to such records during normal working hours of the personnel office and the office shall provide one (1) copy of any record upon request. All personnel records shall be considered confidential to the extent permitted by law. All personnel records of each employee shall be permanently retained by the town following termination.

(Ord. of 6-5-95, § 16(A))

#### **Sec. 12-162. Employee's information changes.**

All changes of address, telephone numbers or family status (births, adoptions, marriage, death, divorce, or legal separation) must be reported to the personnel director immediately in order to maintain accurate records.

(Ord. of 6-5-95, § 16(B))

#### **Secs. 12-163--12-170. Reserved.**

## **ARTICLE XVII.**

### **MISCELLANEOUS PROGRAMS OFFERED**

#### **Sec. 12-171. Employee assistance program.**

The Town of Brunswick offers an Employee Assistance Program (EAP) which provides confidential assistance by certified counselors for help in addressing a wide range of problems including depression, anxiety, alcoholism, drug abuse, marriage and family problems, and financial problems. The plan provides for free initial sessions for an assessment of the problem(s) and a treatment plan which may include free or low-cost, on-going counseling. For more information, contact the personnel director or Mid Coast Health Services Employee Assistance Program at 443-8111.

(Ord. of 6-5-95, § 17(A))

#### **Sec. 12-172. Curtis Memorial Library.**

The Curtis Memorial Library is a valuable resource to the Town of Brunswick. The employees are encouraged to utilize the many quality collections and services it offers to the public.

(Ord. of 6-5-95, § 17(B))

**Sec. 12-173. Wellness program.**

The Town of Brunswick participates in the Maine Municipal Employees Health Trust Wellness Program. This program offers free information on a variety of health-related issues. For more information, contact the town's wellness coordinator.

(Ord. of 6-5-95, § 17(C))

**Sec. 12-174--12-180. Reserved.**

**ARTICLE XVIII.**

**POLICE AND FIRE DEPARTMENTS**

**Sec. 12-181. Applications.**

Applications for employment for positions in the police and fire departments must be filed on forms prescribed by the town and meet the specified requirements as advertised. Such forms may require whatever information is deemed necessary, and applications must be signed by the person applying unless the applicant is physically unable to do so.

The fire department accepts applications only when an eligibility list needs to be established. The police department accepts applications on an on-going basis and will hold applications for a one-year period. The department will notify applicants at such time as a position opening is available or an eligibility list needs to be established. At that time, updated information may be required from the applicant.

(Ord. of 6-5-95, § 18(A))

**Sec. 12-182. Qualifications of applicants.**

An applicant for appointment to the fire department or police department must have the following qualifications:

- (1) *Citizenship.* Applicant must be a U.S. citizen (police only).
- (2) *Age.* Applicant must be at least eighteen (18) years of age.
- (3) *Height and weight.* Applicant's weight, height and body frame must be proportional.
- (4) *Physical condition.* Applicant must be physically, mentally and emotionally fit to carry out the essential functions of the position.
- (5) *Education.* Applicant shall have high school education or equivalent.
- (6) *Character.* Applicant shall be of good moral character.

(7) *Substance abuse.* Applicant shall not be a substance abuser which would tend to substantially impair physical, mental or emotional fitness.

(8) *Criminal record.* Applicant shall not have been convicted of a felony.

(9) *Operator's license.* Applicant shall have a valid motor vehicle operator's license.

(Ord. of 6-5-95, § 18(B))

### **Sec. 12-183. Examinations.**

Examination may include any or all of the following:

(1) *Written examination:* The personnel director shall arrange for written examinations to be given to all eligible applicants.

(2) *Oral examination:* The personnel board shall provide for an oral examination in such form as to test the abilities and aptitudes of candidates for the duties to be performed.

(3) *Physical agility:* Testing shall be conducted by staff of the department for which an eligibility list is being established.

(4) *Pre-employment physical examination:* After a conditional offer is made to an applicant, a physical examination shall be conducted by the town's health care provider. Such testing shall include an assessment of the applicant's ability to perform the essential functions of the position.

(5) *Psychological testing:* After a conditional offer is made to an applicant, psychological testing shall be conducted.

(6) *Drug testing:* After a conditional offer is made, drug testing shall be conducted in accordance with a policy approved by the Department of Labor.

(7) *Polygraph testing:* Polygraph testing shall be conducted either pre or post offer of employment for police candidates only.

(8) And any other tests which may be required by the department.

(Ord. of 6-5-95, § 18(C))

### **Sec. 12-184. Eligibility list.**

After written, oral and agility testing has been conducted, the personnel director shall compile the scores for each applicant and rank the applicants in order of their combined scores on the examinations.

The appointing authority shall review test results and determine the minimum acceptable standards for each individual test as well as the combined score. Applicants whose scores fall below these minimum standards shall not be considered for employment.

- (1) *Expiration.* An eligibility list expires one (1) year after the examination on which it was based.
- (2) *Layoff and reinstatement.* An applicant appointed from an eligibility list who is laid off because of lack of work or insufficient appropriation must be placed at the top of the eligibility list and must be offered reinstatement before any new appointments are made from the list.
- (3) *Public record.* The list of the names of the applicants in their order of standing on the examination is a public record.

(Ord. of 6-5-95, § 18(D))

### **Sec. 12-185. Appointment process.**

(a) [Appointments generally.] The personnel director shall provide the appointing authority the names of the three (3) persons ranked highest on the eligibility list who have indicated a willingness to accept appointment. When more than one (1) vacancy is to be filled, the number of names submitted must equal the number of vacancies plus two (2). If there are less than the required number of eligible applicants, the appointing authority may accept the eligible applicant(s) or it may request the personnel director to readvertise the position, which the personnel director shall do.

All offers of employment shall be conditioned upon satisfactory performance on the required physical, psychological, polygraph (unless done pre-offer), drug test and any other tests required by the department which may be done only after a conditional offer of employment has been made.

- (1) *Probation period.* All appointed and promoted employees in the police and fire departments are subject to a probation period. The probation period shall be one (1) year from the date of hire or promotion except in the case of newly appointed police officers whose probation period shall be the longer of one (1) year from the date of hire or one (1) year after graduation from the Maine Criminal Justice Academy or the date the Board of Trustees of the Academy waives the basic training requirement.

During the probation period, the appointing authority may reject an employee who does not meet expectations. Written notification of such rejection shall be stated in writing to the employee and to the personnel board reporting the name of the person rejected, and the date of rejection and the reason for the rejection. Any rejected employee is permanently separated from the probation position and may be separated from the position previously held. The appointing authority is encouraged to restore a rejected promoted employee to the employee's former position whenever possible. A rejected promoted employee who has completed the probation period for the position he/she had previously held shall have the right to file a written reply with the appointing authority and the personnel board within fifteen (15) days from the date of the rejection. If such employee files a reply and requests a hearing within the prescribed period, the procedures and rights regarding hearings before and finding of the personnel board, as set forth in the personnel policy [, shall apply].

- (2) *Appointment.* If the appointee successfully completes the probation period, he/she becomes a regular employee, as defined in the Personnel Policy.

- (3) *Special police officers.* The chief of police may appoint special police officers without examination. Their term of office expires on the first day of April following their appointment. Special police officers shall be considered on-call employees.
- (4) *Call firefighters.* The fire chief may appoint call firefighters without examination to serve at the chief's pleasure.

(b) *Special appointments permitted.* Upon certification to the council by the town manager or the town manager's designee that, despite making reasonable efforts to obtain a qualified applicant for a particular position, the town manager or the town manager's designee has been unable to do so, the council may permit the appointing authority to fill the vacancy by a special appointment. The appointing authority shall utilize so much of the process outlined in article XVIII in filling positions with qualified personnel as it deems in the best interest of the Town of Brunswick.

(Ord. of 6-5-95, § 18(E); Ord. of 3-7-07)

### **Sec. 12-186. Promotions.**

(a) All promotions within the fire department and within the police department must be made by the chief of the department from a promotion eligibility list which shall be based on efficiency, seniority, and fitness-for-service ratings in addition to oral interview and written examination scores. At the request of the appropriate chief, the personnel director shall submit the names of the three (3) persons ranked highest on the promotion eligibility list. If there are less than three (3) names on the promotion eligibility list, all names must be submitted to the chief.

(b) All applicants for promotion must have served a minimum of two (2) years in the department.

(c) The ranking of a participant on a promotion eligibility list shall be made available to the participant in the examination upon request.

(Ord. of 6-5-95, § 18(F))

### **Sec. 12-187. Physical and mental examinations.**

Annually, in accordance with respective contract provisions, each member of the respective department shall submit to a thorough physical examination; and at any other time, the chief of the respective department or the board may require a member of the department to submit to a physical or mental examination. The examination is performed at the expense of the town by a physician approved by the personnel director. If the results of the examination show that the member involved does not have the physical or mental ability to perform the essential function of the position, with or without an accommodation, this shall be considered cause for disciplinary action, up to and including termination. The employee involved may submit evidence relevant to the employee's physical or mental condition for the consideration of the chief before discharge becomes final.

(Ord. of 6-5-95, § 18(G))