

**PERSONNEL POLICY
TOWN OF GRAND ISLE, VERMONT**

Table of Contents

Section 1: TITLE AND AUTHORITY 3

Section 2: PERSONS COVERED 3

Section 3: PROBATIONARY PERIOD..... 4

Section 4: CONDUCT OF EMPLOYEES 4

Section 5: CONFLICTS OF INTEREST..... 5

Section 6: HOURS OF EMPLOYMENT 6

Section 7: OUTSIDE EMPLOYMENT..... 6

Section 8: POLITICAL ACTIVITY..... 6

Section 9: NEPOTISM 7

Section 10: ALCOHOL AND DRUG USE..... 7

Section 11: TOBACCO USE..... 8

Section 12: PERFORMANCE EVALUATIONS..... 9

Section 13: PERSONNEL RECORDS..... 9

Section 14: USE OF TOWN EQUIPMENT..... 9

Section 15: USE OF TOWN COMPUTER SYSTEM 9

Section 16: PERSONAL USE OF SOCIAL MEDIA..... 11

Section 17: PUBLIC RECORDS..... 12

Section 18: ELIGIBILITY FOR BENEFITS 12

Section 19: HOLIDAY LEAVE 13

Section 20: PAID TIME OFF..... 13

Section 21: BEREAVEMENT LEAVE..... 15

Section 22: CRIME VICTIM LEAVE 16

Section 23: LEAVE OF ABSENCE WITHOUT PAY 17

Section 24: MILITARY LEAVE..... 17

Section 25: CIVIL Duty AND JURY LEAVE..... 17

Section 26: OVERTIME..... 18

Section 27: EQUAL EMPLOYMENT AND ANTI-DISCRIMINATION 18

Section 28: SEXUAL HARASSMENT..... 20

Section 29: EMPLOYEE DISCIPLINE 22

Section 30: EMPLOYEE TERMINATION PROCESS..... 23

Section 31: SEparation from employment..... 23

Section 32: SEVERABILITY..... 24

Addendum A: RECEIPT AND ACKNOWLEDGEMENT PERSONNEL POLICY 25

Addendum B: AGREEMENT BY INDEPENDENTLY-ELECTED OFFICER and/OR
THEIR STATUTORY ASSISTANTS TO BE BOUND BY PERSONNEL POLICY 26

Addendum C: CONFLICT OF INTEREST POLICY 28

Addendum D:GRAND ISLE, VERMONT DRUG & ALCOHOL POLICY FOR CMV
OPERATORS_..... 33

SECTION 1: TITLE AND AUTHORITY

This policy shall be known as the Town of Grand Isle Personnel Policy. It has been adopted by the Town of Grand Isle Selectboard pursuant to 24 V.S.A. §§ 1121 and 1122. This policy supersedes and replaces all prior manuals, policies, benefits, and practices of the Town of Grand Isle [hereinafter “Town”] regarding employment and personnel matters.

Unless otherwise provided by statute or written contract, employment with the Town is “at will” and not for any definite period or succession of periods of time. The Town or the employee may terminate employment at any time, for any reason or no reason, with or without notice or cause. This policy is not and should not be construed as an express or implied contract and it does not modify any existing at-will status of any Town employee. The Selectboard reserves the right to revise, modify, delete, or add to any and all policies, rules or benefits described in this Personnel Policy for any reason and at any time, with or without notice.

This Personnel Manual will be administered by the Selectboard or its authorized representative. It is not intended to be comprehensive or to address all possible applications of, or exceptions to, the policies, rules, and benefits described herein. Specific questions concerning eligibility for a particular benefit or the applicability of a particular policy or rule to an individual should be addressed to the Selectboard or its authorized representative.

See Addendum A: Personnel Acknowledgement Form

SECTION 2: PERSONS COVERED

Town employees. This Personnel Policy applies to all full-time and part-time employees of the Town. Except by separate written agreement and in accordance with that agreement, elected officers and their statutory assistants, members of Town boards and commissions, volunteers, seasonal employees, and persons who provide the Town with services on a contract basis are not covered by this policy.

For the purposes of this policy, a full-time employee is an employee who works at least 32 hours per week on a regular and continuing basis. A part-time employee is an employee who works fewer than 32 hours per week on a regular and continuing basis.

Elected officials and statutory assistants. By statute, the town clerk must, and the town treasurer may, appoint assistants. These statutory assistants serve at the pleasure of the municipal clerk or treasurer and may hold office for the duration of the clerk or treasurer's term or until the clerk or treasurer revokes such appointment. These statutory assistants report to the officer appointing them and not to the Selectboard. Accordingly, though they are compensated by the Town for their work and may be provided with benefits, statutory assistants are not covered by this policy unless their elected official supervisor affirmatively elects for them to be covered by this policy.

Elected officials, including town clerks and treasurers, who elect to be covered by this policy, and/or elect to have their assistants covered by this policy must fill out and file **Addendum B: Independently Elected Officer Bound by Personnel Policy Form**. When an election is made to be covered by this policy, all provisions of the Personnel Policy apply except for the provisions on Probationary Period, Performance Evaluations, Employee Discipline, and Employee Termination.

Where a conflict exists between this policy and any collective bargaining agreement or individual employment contract, the latter will control.

SECTION 3: PROBATIONARY PERIOD

All new employees are required to complete a 90-day probationary period. The purpose of this probationary period is to determine whether the employee is suited for the job. To the extent necessary, the Selectboard may extend an employee's probationary period when an employee requires more time to understand a position and fulfill workplace expectations. During the probationary period, an employee may be terminated at any time for any reason or no reason at the sole discretion of the Selectboard. Notwithstanding any other provision of this policy, an employee terminated during the probationary period will have no right to appeal such termination.

SECTION 4: CONDUCT OF EMPLOYEES

As representatives of the Town, all employees are expected to be courteous, helpful, and respectful to members of the public, including those doing business with the Town, and to work collaboratively with elected and appointed officials. Employee interactions with other employees shall not be disruptive to the work environment.

REQUIRED CONDUCT. The following conduct is required of all employees, except as may be otherwise authorized by law, rule, contractual agreement, or supervisor approval:

- Employees shall fulfill all of the duties and responsibilities of their position in an efficient, timely and effective manner. Employees shall pursue the common good in their official activities and shall uphold the public trust.
- Employees shall be punctual in reporting to work and shall remain at work until the scheduled end of their workday unless otherwise authorized by a supervisor. Unexpected absences shall be reported as soon as possible.
- Employees shall devote their full time, attention, and effort to the duties and responsibilities of their position during their scheduled work time, to the exclusion of other activities including but not limited to political activity.
- Employees shall respect the legitimate privacy interests of their co-workers, superiors, and employer, both as to personal property and work product in the workplace.
- Employees shall carry out their work in a manner which minimizes risk of personal injury or property damage to the employee, other employees, the Town, and the public.
- Employees shall report to an immediate supervisor or other supervisor any work incident which results in personal injury or property damage. Any such incident warranting emergency services shall be immediately reported to the police or fire and rescue as appropriate. Employees shall not discuss any such incident with anyone other than Town officials, except as may be necessary for rendering of emergency services.
- Employees are expected to execute the duties and responsibilities of their office to the best of their ability and in compliance with the provisions of this Personnel Policy.

SECTION 5: CONFLICTS OF INTEREST

Employees shall not participate in any decision or action if the employee has a conflict of interest in the matter under consideration. A "conflict of interest" means a direct or indirect personal or financial interest of the employee, their spouse, domestic partner, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother- or sister-in-law, business associate, employer, or employee, in the outcome of a cause, proceeding, application or any other matter pending before the employee or before the City.

See also Addendum C Conflict of Interest Policy.

SECTION 6: HOURS OF EMPLOYMENT

Elected officials, including the town clerk and town treasurer, and their statutory assistants, set their own schedules. All other full- and part-time employees' regular schedules are set by the employee's supervisor. Employees scheduled to work a seven (7) hour day may take an unpaid 30-minute lunch break, so long as the employee works a full seven (7) hour day.

Regular work hours are set and may be changed by the employee's supervisor, and employees may be expected to work additional hours that may exceed thirty-five (35) hours in a given workweek, as circumstances require. All road crew employees are required to be available for work on an on-call basis, especially during the winter months. All Town employees are required to be available for work in the event of an emergency, weather-related or otherwise. All nonexempt employees called in to perform work beyond their regularly scheduled work week will be paid overtime pay at time-and-a-half for any work hours that exceeds forty (40) hours worked in a work week.

Please see the Holiday Leave section below regarding pay when called in to work on a holiday. All employees are expected to be in attendance during regular work hours. Employees who will be absent from work are expected to notify their supervisor in advance whenever possible. Employees who call in sick are expected to notify their Supervisor as soon as possible prior to their shift. Employees planning to use more than one (1) day of PTO at a time are required to notify their supervisor at least one (1) week in advance. Planned leaves of absence may be approved or disapproved based on the needs of the Town's operations. Requests for leave will not be unreasonably withheld.

SECTION 7: OUTSIDE EMPLOYMENT

Employees are prohibited from undertaking outside employment that interferes with their job performance or constitutes a conflict of interest, as defined in Section 5 of this Policy.

SECTION 8: POLITICAL ACTIVITY

No employee may use their official authority for the purpose of interfering with or affecting the nomination or election of any candidate for public office, or demand or solicit from any individual direct or indirect participation in any political party, political organization, or support of any political candidate. Employees are

prohibited from using Town facilities, equipment, or resources for political purposes and from pursuing political activities while working.

This Personnel Policy is not to be construed to prevent employees from becoming or continuing to be members of any political party or organization, from attending political party or organization meetings or events, or from expressing their views on political matters or on matters of public concern consistent with their First Amendment rights. This Personnel Policy is not to be construed as prohibiting, restraining or in any manner limiting an individual's right to vote with complete freedom in any election.

SECTION 9: NEPOTISM

The Town – in recognition of the potential for a conflict of interest to occur in the workplace where a close relative is responsible for supervising or evaluating the work performance of another close relative – prohibits the hiring or transferring of relatives, when doing so will result in a close relative supervising or evaluating another close relative, or a close relative supervising or evaluating the immediate supervision of another close relative.

A close relative includes a spouse, domestic partner, romantic co-habitant, parent, stepparent, grandparent, child, stepchild, grandchild, sibling, aunt or uncle, niece or nephew, parent-in-law, and sibling-in-law.

SECTION 10: ALCOHOL AND DRUG USE

(See Addendum D regarding CMV Operators)

The Town maintains a drug-free workplace and workforce. The use of alcohol or illegal drugs and the abuse of prescription drugs are not tolerated in the workplace or at work-related events.

As a Town employee, you are prohibited from working, or presenting yourself for work, while under the influence, or severe aftereffects, of illegal drugs, controlled substances, and/or alcohol. This policy is designed to promote our goal of providing a safe, healthy, and productive work environment. This policy covers all employees, including drivers and other employees who also are subject to drug testing programs performed in accordance with Federal Department of Transportation (DOT) requirements.

It is the policy of the Town to prohibit the manufacture, distribution, transfer, display, transportation, sale, dispensing, possession, consumption or use of illegal drugs, controlled substances, and/or alcohol by Town employees at the workplace and/or during working hours. Prohibited behavior includes manufacturing, distributing, transferring, displaying, transporting, selling, dispensing, possessing, consuming, using, or being under the influence of illegal drugs, controlled substances, and/or alcohol during work hours, on work premises, while engaged in work activities away from work premises, or during work-related events.

For the purposes of this policy, the term “illegal drug” includes both: (a) all state and/or federally controlled substances, including look-alike and designer drugs, and drug paraphernalia, and (b) prescription medications that have not been prescribed for current use by an authorized medical practitioner or that are being used contrary to the prescribing medical practitioner’s instructions. Controlled substances include but are not limited to the following substances: marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), barbiturates, benzodiazepine, methadone, methaqualone, and propoxyphene.

Violations of this policy may subject employees to disciplinary action, up to and including termination of employment and referral for prosecution

The Town reserves the right to search and inspect all areas of the workplace and its premises for the purposes of maintaining a safe and healthy workplace.

The improper use of prescription drugs is also prohibited. An employee who is using prescribed drugs as prescribed and whose ability to safely perform their job responsibilities is affected by the prescribed drug may be relieved of their duties at the discretion of their supervisor until cleared by a licensed medical provider to return to work.

In addition to this policy, employees who operate commercial motor vehicles (CMVs) for the Town are also subject to the provisions of the Town's CMV Drug and Alcohol Policy.

SECTION 11: TOBACCO USE

In recognition of the hazards that tobacco poses to the health of employees, and in accordance with 18 V.S.A. §§ 1421 et seq. and §§ 1741 et seq., the Town hereby prohibits employees’ use of tobacco in any form, including electronic cigarettes, in

all publicly owned buildings, offices and enclosed areas, designated smoke-free areas of Town property, and in all Town vehicles.

SECTION 12: PERFORMANCE EVALUATIONS

Employees may be provided with job performance evaluations at such times and in such manner as the Selectboard or Selectboard's authorized representative deems reasonable. The results of such evaluations will be submitted to the employee, the employee's supervisor, the Selectboard and will become a part of the employee's personnel file.

SECTION 13: PERSONNEL RECORDS

Personnel records will be maintained for each employee of the Town. In accordance with Vermont's Public Records Act, any employee or the employee's designated representative may inspect or copy their personnel file at a mutually agreeable time during regular office hours. The Town reserves the right to have its representative present at the time its files are examined or copied.

SECTION 14: USE OF TOWN EQUIPMENT

Except as provided in Section 15, the use of Town equipment or property for personal use is strictly prohibited. Employees should have no expectation of privacy regarding anything stored in or on Town-owned property or Town-owned equipment, including but not limited to desks, filing cabinets, lockers, and vehicles. Employees should expect that such areas are subject to search by the Town at any time to retrieve work-related materials or to investigate violations of workplace rules.

SECTION 15: USE OF TOWN COMPUTER SYSTEM

For purposes of this policy, "computer system" means all computers and devices and any related hardware, equipment, components, or software, including, but not limited to, host computers, file servers, workstation terminals, laptops, tablets, smartphones, internal or external communication networks, the world wide web (www), the Internet, commercial online services, bulletin board systems, backup systems, and the internal and external e-mail systems accessed via the Town's computer equipment.

The Town provides electronic communications systems for use in carrying out its business. All communication and information transmitted by, received from, or stored in these systems are the property of the Town and as such are intended to be used for job-related purposes only. Data and information on the system belongs to the Town and will not be deemed personal. Town employees should avoid conducting Town business using their personal computer, device, or accounts. Emails and text messages sent or received on an employee's personal computer, device or account related to Town business are subject to the requirements of the Public Records Act.

Occasional, brief, and appropriate personal use of the Town computer system is permitted, provided it is consistent with this policy and does not interfere with an employee's performance of their employment duties and responsibilities.

Employees should have no expectation of privacy or confidentiality regarding anything created, sent, or received on the Town computer system whether they have been assigned a confidential password or not. The Town reserves the right to monitor at any time its computer system and data with or without notice. All files, documents, data, and other electronic messages created, received, or stored on the Town computer system are open to review and regulation by the Town and may be subject to the provisions of Vermont's Public Records Act and may be covered by the record retention requirements of the State of Vermont's General Records Schedules or Disposition Orders. Accordingly, employees shall not discard or delete any files, documents, data, and other electronic messages created, received, or stored in the course of official Town business except as in accordance with law. Questions regarding the requirements of the Vermont Public Records Act, General Records Schedules, or Disposition Orders as they apply to particular files, documents or data should be directed to the employee's supervisor.

Employees may not introduce software from any outside source on the Town's computer system without explicit prior authorization from their supervisor. Only legally licensed software may be installed on the Town's computers. Employees are prohibited from introducing software from any outside source on the Town's computer system without explicit prior authorization from their supervisor. Employees may be held responsible for any damages caused by using unauthorized software or viruses they introduce into the Town computer system. Virus protection software shall not be removed or disabled. Employees must follow Town guidelines for scanning all incoming communications and media.

Email communications sent or received on Town computers and devices are primarily for use in work-related matters. Email messages or other communications with members of the public, other elected officials, contractors, etc., shall be in accordance with this policy. Personal use of the internet, including search engines, for non-work purposes, shall be limited. Employees are strictly prohibited from engaging in the following conduct using Town communication devices:

- Engaging in offensive, abusive, discriminatory, harassing, or threatening behavior online.
- Accessing pornographic or sexually explicit websites
- Transmitting non-work-related email chains, solicitations of any kind, religious or political materials, etc. This prohibition with respect to political materials does not extend to protected activities under Section 7 of the National Labor Relations Act.

Nothing in this policy will be interpreted or applied in a manner that interferes with employee rights to organize, form, join, or assist labor organizations, to bargain collectively through representatives of their choosing to the extent allowed by law, or to engage in other concerted activities for the purpose of addressing the terms and conditions of employment.

SECTION 16: PERSONAL USE OF SOCIAL MEDIA

This section applies to employees using social media in their personal, non-official capacity. Social media includes platforms such as Facebook, X (Twitter), TikTok, Instagram, Reddit, Blog posts, etc. Personal use of social media means day-to-day use of social media by an employee that is unrelated to their official work duties. Employees' personal use of social media may occur during work or off-duty hours. Consistent with Section 15, occasional, brief, and appropriate personal use of social media is permitted during work hours provided it does not interfere with the performance of an employee's job duties and responsibilities.

Employees in the exercise of their First Amendment rights are permitted, in their personal use of social media, to comment on matters of public concern. Any posts shall make clear that the posts represent the employee's own views and are not those of the Town. An employee's posts on social media shall not be disruptive to the Town's operations.

Employees are prohibited from using their Town email account or password in conjunction with a personal social media platform.

SECTION 17: PUBLIC RECORDS

Any written or recorded information that is produced or acquired by a Town employee in the course of Town business is a public record, subject to Vermont's Public Records Act and may be covered by the State of Vermont's retention rules and disposition schedules for municipal records. Although the Town discourages the use of personal computers, devices, or accounts to conduct Town business (see Section 15, above), the use of a personal computer, device, or account does not prevent an otherwise public record from being subject to public inspection and copying. In the uncommon event that an employee uses their personal computer, device, or account to conduct Town business, the record created, sent, or received should be forwarded by the employee to the employee's Town computer system, or otherwise captured and retained as a Town record. All employees are required to respond in the manner prescribed by Vermont's Public Records Act regardless of where a Town public record may be stored. All employees are required to provide any Town public records stored on their personal computers, devices, or accounts that are responsive to a public records request.

Employees are directed to the Town's Records Management Policy and Procedure, incorporated by reference and attached hereto as **Addendum E**, for management of the town's "records" as defined by 1 V.S.A. § 317.

Responses to Public Records Act requests must be in accordance with the Town's Public Records Inspection, Copying and Transmission Policy, incorporated by reference and attached hereto as **Addendum F**.

SECTION 18: ELIGIBILITY FOR BENEFITS

The Town of Grand Isle offers health insurance coverage to all Town employees who work an average of thirty (30) hours or more per week or one hundred thirty (130) hours in a calendar month. Elected officials and their statutory assistants are not eligible for the benefits described herein absent an election to be bound by the Personnel Policy.

This Personnel Policy is not contractual in nature and does not guarantee any continuance of insurance benefits. The Town reserves the right to change insurance carriers, or to add, delete or amend insurance or other benefit programs in its sole discretion. The Town also reserves the right to change the amount or percentage of its contribution to the cost of any group health insurance program. The Town will

endeavor to provide employees with advance notice of any change in the contribution rate.

SECTION 19: HOLIDAY LEAVE

Full- and part-time employees subject to and covered by the Personnel Policy will receive the following paid holiday leave:

- New Year's Day (January 1)
- Martin Luther King Jr.'s Birthday (3rd Monday in January)
- Presidents Day (3rd Monday in February)
- Memorial Day (last Monday in May)
- Juneteenth (June 19th)
- Independence Day (July 4)
- Labor Day (1st Monday in September)
- Veterans' Day (November 11)
- Half (½) Day before Thanksgiving
- Thanksgiving Day (4th Thursday in November)
- Half (½) Day before Christmas
- Christmas Day (December 25)

Employees will receive holiday leave pay equal to the number of hours in the employee's typical workday on which the holiday falls, at the employee's regular rate of pay. Part-time employees will receive prorated holiday leave pay based on the number of hours the employee is regularly scheduled to work.

Holidays falling on a Saturday will be observed the preceding Friday. Holidays falling on a Sunday will be observed the following Monday.

Holidays that fall during an employee's vacation leave will not be charged as vacation leave.

If an employee is required by the Town to perform work on any of the above observed holidays, the employee will be paid for such work hours at one and one-half times their regular rate of pay.

SECTION 20: PAID TIME OFF

The Town recognizes that employees subject to and covered by the Personnel Policy have diverse needs for time off from work. The Town has adopted a paid time off policy (PTO) that promotes a flexible approach to time off by combining

vacation, sick and personal leave. Employees are accountable and responsible for managing their own PTO hours to allow for adequate reserves if there is a need to cover vacation, illness or disability, appointments, emergencies, or other situations that require time off from work.

Employees may use PTO for whatever reason they choose (annual leave, combined time off, vacation leave, personal leave, sick leave, or any similar type of leave).

Full-time employees.

PTO for full-time employees is based on the number of hours per week the employee works and their years of service to the Town. PTO for full-time employees is based on a 40-hour work week. Full-time employees who work less than 40 hours per week accrue PTO on a pro-rated basis based on the number of hours the employee regularly and actually works in a work week. An employee who regularly works a 40-hour work week may use up to 40 hours of PTO in one work week; employees who work less than 40 hours in one work may use PTO on a pro rata basis. PTO can only be used in lieu of hours worked.

Employees who work less than 18 hours per week are not eligible for PTO. Seasonal employees who work less than 20 weeks in a 12-month period are not eligible for PTO.

Accrual occurs monthly based on the number of hours the employee actually works starting on July 1st.

<u>Years of Service</u>	<u>PTO Hours per year for 40 hours per week</u>	<u>Accrual rate per hour worked</u>
After 6 months	60	0.028846
1-5 years	120	0.057692
6-10 years	160	0.076923
More than 10	200	0.096154

PTO must be used in increments of no less than 15 minutes.

Accrued and unused PTO may be carried over from one fiscal year to the next up to a maximum of one hundred sixty (160) hours. PTO can only be used in lieu of hours worked.

For extended absences, employees must provide notice as soon as practicable of the intent to use accrued PTO and the expected duration of the employee's absence. Employees are encouraged to make reasonable efforts to avoid scheduling routine or preventive health care or other appointments during regular work hours.

Compensation for use of paid leave will be at the employee's regular rate of pay.

Use of this paid leave does not diminish the rights, if any, that an employee may have under the Vermont Parental Family Leave Act, 21 V.S.A. § 470.

Compensation at Time of Separation from Employment shall be consistent with the above policy on accrued and unused PTO. Employees may be paid for up to one hundred sixty (160) hours of accrued and unused PTO.

Part-time Employees.

Part-time employees who work less than 32 hours per week but more than 18 hours per week on a regular and continuing basis accrue PTO leave on an hourly basis up to a maximum of 40 hours per calendar year. For every 52 hours worked, an employee earns 1 hour of PTO (PTO Accrual rate per hour worked: 0.0192307). Employees may carry over up to 40 hours of unused PTO into the next fiscal year. PTO can only be used in lieu of hours worked. An employee may not use more PTO in one work week than the number of hours they regularly work in one work week.

Seasonal Employees.

Employees who work less than 20 weeks in a 12-month period are not covered by this PTO policy.

SECTION 21: BEREAVEMENT LEAVE

Full-time employees may be provided with up to (3) three paid bereavement leave days related to the death of a close family member, domestic partner or member of an employee's household. The exact amount of time off is dependent upon the

circumstances and subject to supervisor approval. For purposes of this policy, close family member is defined as the following: spouse, domestic partner, parent, stepparent, grandparent, child, stepchild, grandchild, sibling, aunt, uncle, niece, nephew, parent-in-law, or sibling-in-law.

If additional time off is needed, or if time off is needed for the funeral of a friend or a relative who is not an immediate family member as defined above, nor a domestic partner, nor member of an employee's household, the employee's supervisor may grant, on a case-by-case basis, the use of a reasonable amount of accrued sick leave, if available, or, if not, unpaid leave. The amount of such time off, if approved, will depend upon the individual circumstances such as the distance to be traveled, closeness of the employee's relationship with the person who died or the employee's family, and the employee's level of responsibility in making funeral or other arrangements.

Paid bereavement leave does not accrue and thus, when not used, is not carried forward into the next year nor compensated upon separation from employment.

SECTION 22: CRIME VICTIM LEAVE

In accordance with 21 V.S.A. § 472c, employees who have been employed continuously for a period of six months for an average of 20 hours per week and who are crime victims may be entitled to take unpaid leave for the purpose of attending a deposition or court proceeding related to:

- A criminal proceeding when the employee has a legal right or obligation to appear at the proceeding.
- A relief from abuse, neglect, or exploitation hearing when the employee is the plaintiff.
- Hearings concerning an order against stalking or sexual assault when the employee seeks the order as plaintiff.

A "crime victim" is a person who has:

- Obtained a relief from abuse order against a family or household member;
- Obtained a court order against stalking or sexual assault;
- Obtained a court order against abuse of a vulnerable adult; or
- Sustained physical, emotional, or financial injury as the direct result of the commission or attempted commission of a crime or act of delinquency and is identified as a crime victim in an affidavit filed by law enforcement official with a prosecuting attorney. This also includes the victim's child, foster child, parent, spouse, stepchild, or ward of the victim who lives with the

victim, or a parent of the victim's spouse, provided that the individual is not identified in the affidavit as the defendant.

SECTION 23: LEAVE OF ABSENCE WITHOUT PAY

Requests for leaves of absence without pay for any reason other than those covered by federal, or state law must be submitted in writing to the employee's supervisor and must set forth the purpose for which the leave is requested. All leave requests must be for a definite period of time and include a specified date of return.

If a leave of absence without pay is granted, the employee may, at the Town's sole discretion, continue the employee's group health plan coverage by paying the required premium in accordance with the payment schedule established by the Town. Other employee benefits (*e.g.* sick leave, vacation, seniority, etc.) will not accrue during an unpaid leave period that exceeds 10 days.

SECTION 24: MILITARY LEAVE

Employees who take military leave subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4303 et seq., and 21 V.S.A. §§ 491 et seq. will be granted leave without pay. At the option of the employee, any paid vacation leave accrued prior to the commencement of the leave may be used.

SECTION 25: CIVIL DUTY AND JURY LEAVE

All employees entitled to vote in national, state, and municipal elections shall, when necessary, be allowed sufficient time off with pay to exercise this right. Employees are permitted unpaid leave from employment to attend the Annual Meeting so long as the leave does not interfere with the essential operation of the Town. Approval of such leaves shall be made by the employee's supervisor. Requests to attend the annual town meeting must be made seven (7) days prior to the date of the town meeting.

The Town will compensate employees for their service as jurors or witnesses when their service is unrelated to their status as a Town employee at the employees' regular hourly rate minus court compensation. In accordance with 21 V.S.A. § 499, employees will otherwise be considered in the service of the Town for purposes of determining seniority, benefits, credit towards vacations, sick leave, and other rights, privileges, and benefits of employment.

When Town employees are called to serve as a witness in a court proceeding due to their status as an employee of the Town, the Town will compensate the employee for the difference between their regular rate of pay and their compensation as a witness. The Town will pay the difference only when the employees' regular rate of pay exceeds their compensation as a witness.

SECTION 26: OVERTIME

In accordance with the federal Fair Labor Standards Act (FLSA), the Town compensates nonexempt hourly employees at the rate of one and one-half hours for each hour actually worked in excess of forty hours in any workweek. Vacation days do not count as hours worked for purposes of calculating either overtime or compensatory time eligibility.

No employee may work over forty (40) hours in a given workweek without the prior authorization of their supervisor. Acceptance of a directive to work overtime is considered a condition of employment. At the supervisor's discretion, an employee's work schedule may be adjusted during a workweek to avoid overtime. The Town of Grand Isle does not approve, accrue or participate in compensatory time off. All time worked must be paid in the applicable pay period.

SECTION 27: EQUAL EMPLOYMENT AND ANTI-DISCRIMINATION

It is the policy of the Town of Grand Isle to provide equal employment opportunity to all persons based on individual merit, competence, and need. The Town does not discriminate against employees or applicants for employment on any legally recognized basis including, but not limited to race, color, religion, sex, sexual orientation, age, national origin, marital status, disability, veteran status, ancestry, pregnancy, gender identity, HIV status, place of birth, or any other recognized basis under local, state, or federal law ("Protected Bases"). This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, training, compensation, layoff, and termination.

All employees, including supervisors, department heads, and elected officials are required to abide by this policy.

Harassment of one employee by another employee or by a supervisor is prohibited. Harassment means unwelcome conduct that is based on any of these Protected Bases. An employee who commits harassment will be subject to discipline up to

and including immediate dismissal. Examples of harassment may include, but are not limited to offensive jokes, gestures, slurs, epithets, or name calling, physical threats, intimidation, ridicule or mockery, insults or put downs, and offensive objects, pictures, or written materials.

Simple teasing, offhand comments, or isolated incidents that are not very serious are not illegal. To be unlawful, the conduct must be so frequent or severe that it creates a hostile or offensive work environment or results in an adverse employment decision (such as the victim being fired or demoted).

Any employee who believes they have been subjected to harassment, or to retaliation for having brought or cooperated with a complaint or an investigation of harassment, should report it promptly to the Grand Isle Selectboard or Grand Isle Town Clerk.

Complaints of harassment or retaliation may also be filed with the following state and federal agencies:

- Civil Rights Unit
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001
Email: ago.civilrights@vermont.gov
Telephone: 802.828.3657
888.745.9195 (Toll Free VT)
- U.S. Equal Employment Opportunity Commission (EEOC)
JFK Federal Building
15 New Sudbury Street, Room 475
Boston, MA 02203-0506
Website: www.eeoc.gov
Telephone: 800.669.4000
800-669-6820 (TTY)
844-234-5122 (ASL Video)

If the Town receives a complaint of harassment or discrimination or has reason to believe that harassment or discrimination has occurred, it will promptly, thoroughly, and impartially investigate the matter. Investigations will be conducted in a confidential and discrete manner to the extent possible and complaints will be disclosed only to those persons necessary to thoroughly investigate and address the matter. If a violation of this policy is found to have occurred, corrective action will

be taken, and the offending employee shall be subject to discipline including but not limited to dismissal from employment.

SECTION 28: SEXUAL HARASSMENT

It is the policy of the Town to promote a workplace that is free of sexual harassment. Sexual harassment in the workplace is unlawful under state and federal law and will not be tolerated by any employee, whether male or female. A copy of this policy will be provided to all employees and elected or appointed officials. Additional copies are available in the Town Office.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, written, physical, and nonphysical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term
- or condition of employment;
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that individual, including but not limited to placement, promotion, training, or compensation; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment may be indirect or even unintentional and may include off-duty conduct that affects an employee's working environment. Examples of sexual harassment may include, but are not limited to, coercion of sexual relations, touching or grabbing an employee's body parts, and sexually offensive comments, name-calling, jokes, gestures, innuendos, and other unwelcome sexually oriented statements. Employees of the Town are prohibited from bringing into the workplace or otherwise displaying any written materials or images that may be considered sexually suggestive or offensive in nature. Sexual harassment can also include offensive remarks about a person's sex, such as a man making offensive comments about women in general, vice versa, or a person who makes offensive comments about a person who is transgender.

Retaliation against an employee who complains in good faith about having been subjected to sexual harassment, or who cooperates in an investigation of sexual harassment, is a violation of this policy. Retaliation is a recognized form of harassment and will be handled in the same manner as other forms of harassment under this policy.

If you believe you have been subjected to sexual harassment, or retaliation for having brought or supported a complaint of sexual harassment, you are encouraged but not required to directly inform the offending person or persons that such conduct is offensive and must stop. If you do not wish to communicate directly with the alleged harasser or harassers, or if such direct communications have been ineffective, then you should immediately report the matter to your supervisor. If reporting to a supervisor is not possible, then a report should be made to the Grand Isle Selectboard or Grand Isle Town Clerk.

For any complaint of harassment or discrimination, if possible, because it is helpful to the investigation, the employee is encouraged to keep a diary of events and to record the names of people who witnessed or were told of the harassment. Upon request, reasonable accommodations will be made for persons with disabilities who need assistance with filing or pursuing a complaint under either the anti-discrimination or sexual harassment policies.

Complaints regarding sexual harassment or retaliation may also be filed with the following state and federal agencies:

- Civil Rights Unit
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001
Email: ago.civilrights@vermont.gov
Telephone: 802.828.3657
888.745.9195 (Toll Free VT)
- U.S. Equal Employment Opportunity Commission (EEOC)
JFK Federal Building
15 New Sudbury Street, Room 475
Boston, MA 02203-0506
Website: www.eeoc.gov
Telephone: 800.669.4000
800-669-6820 (TTY)
844-234-5122 (ASL Video)

These agencies may conduct impartial investigations, facilitate conciliation, and if they find that there is probable cause or reasonable grounds to believe that sexual harassment occurred, they may file a complaint in court.

If the Town receives a complaint of sexual harassment or has reason to believe that sexual harassment has occurred, it will take all steps necessary to ensure that the matter is promptly investigated and addressed. Investigations will be conducted in a confidential and discrete manner to the extent possible and complaints will be disclosed only to those persons necessary to thoroughly investigate and address the matter. The Town is required by law to act if it learns of potential sexual harassment, even if the person subjected to the harassment does not wish to file a complaint. Supervisors and Department Heads are responsible for promptly responding to any complaint or suspected incidents of sexual harassment, and for notifying the Grand Isle Selectboard or Grand Isle Town Clerk. If a violation of this policy is found to have occurred, corrective action will be taken, and the offending employee shall be subject to discipline including but not limited to dismissal from employment. If the complainant is dissatisfied with the actions taken by the Town, they may file a complaint with the state or federal agencies identified above.

SECTION 29: EMPLOYEE DISCIPLINE

PROHIBITED CONDUCT. Prohibited conduct for all employees includes but is not limited to:

- Employees shall not use, or attempt to use, their positions to obtain special privileges or exemptions for themselves or others.
- Employees shall not use, or attempt to use, Town personnel, property, or equipment for their private use or for any use not required for the proper discharge of their official duties.
- Employees shall not solicit or accept any form of compensation from anyone except the Town for activities which are related to their position, unless it is provided for by law or approved by the Selectboard. Prohibited compensation shall include any gift, reward, loan, gratuity or other valuable consideration, including free meals, provided to employees, their immediate family, or business associate(s).
- Employees shall not engage in any employment, activity, or enterprise which is inconsistent, incompatible, or in conflict with their duties as a Town employee or with the duties, functions or responsibilities of the Town.
- Employees shall not engage in any outside employment, activity, or enterprise during their work hours.
- Employees shall not disclose, directly or indirectly, information which they receive or have access to by virtue of their official duties, either for the

private gain or benefit of themselves or others, except as authorized by their superiors or by law.

- Employees shall not interfere with a lawful request for public information. Providing information must be done in a manner which does not show preference to any particular entity, business or organization.
- Employees shall not solicit any form of private contract as a result of information gained through their employment.
- Employees shall not smoke or use smokeless tobacco within any Town-owned buildings, work areas or vehicles.
- Employees shall not report to work or engage in work under the influence of alcohol or drugs, and employees shall not consume alcohol or drugs during their scheduled work time. The only exception to this rule is use of a drug prescribed by a duly licensed health care provider, provided such use is in the manner prescribed and the employee is cleared to work while using such prescription drug.
- Employees shall not violate the Town's Equal Employment, Anti-Discrimination Policies, or Sexual Harassment policies.

Employees engaging in the conduct listed above may receive discipline, up to and including termination

SECTION 30: EMPLOYEE TERMINATION PROCESS

The Town retains the right to unilaterally eliminate a position and thus terminate employment or reduce the work hours for some or all employees due to economic conditions, shortage of work, organizational efficiency, changes in departmental functions, and/or reorganization or reclassification of positions resulting in the elimination of a position or for other related reasons.

SECTION 31: SEPARATION FROM EMPLOYMENT

The Selectboard may, at any time, terminate an employee's employment with the Town by providing the employee with a written notice of termination. Termination shall be effective on the date set forth in the notice.

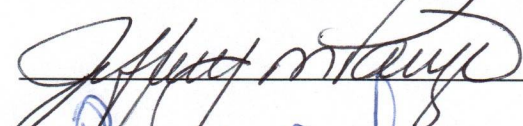
Employees may resign from employment with the Town at any time by providing the Selectboard written notice of resignation. The employee may specify the effective date of his/her/their resignation which, absent unusual circumstances, should not be earlier than two weeks following the date the notice is delivered to the Selectboard.

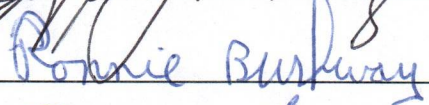
SECTION 32: SEVERABILITY

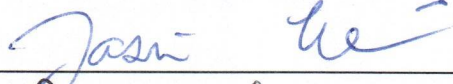
If any provision of this Personnel Policy or the application hereof to any person or a circumstance(s) is held invalid, this invalidity does not affect other provisions or applications of the personnel rules which can be given effect without the invalid provision or application. For this purpose, this Personnel Policy is severable.

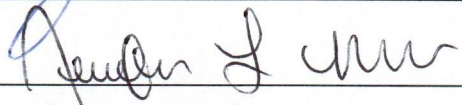
ADOPTED this 5th day of August, 2024.

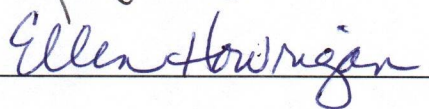
SIGNATURES of SELECTBOARD:











ADDENDUM A: RECEIPT AND ACKNOWLEDGEMENT PERSONNEL POLICY

I, _____, acknowledge that:

- I received a copy of the Town of Grand Isle’s Personnel Policy on _____ and understand it is my responsibility to read and familiarize myself with its contents.
- I understand that it is my responsibility to ask questions if there is anything in the policy that I do not understand.
- I understand that unless otherwise provided by contract or statute, my employment with the Town is terminable at will, meaning at any time and for any reason or no reason, regardless of the length of my employment or the granting of benefits of any kind.
- I am aware that the description of benefits in this policy and Addendum are not contractual in nature and do not guarantee any continuance of benefits.
- I understand that this policy replaces any and all prior versions and that the Town reserves the right, at its sole discretion, to add, amend or discontinue any of the provisions of this policy for any reason or no reason, in whole or in part, at any time, with or without notice.
- I understand that my signature below indicates that I have read and understand the statements above and that it is my responsibility to adhere to the policies contained within the Personnel Policy, including but not limited to those policies concerning equal employment opportunities, and those prohibiting discrimination and sexual or other harassment.
- I understand that this Receipt and Acknowledgment will be placed in my personnel record.

Employee’s Signature

Date

ADDENDUM B: AGREEMENT BY INDEPENDENTLY-ELECTED OFFICER AND/OR THEIR STATUTORY ASSISTANTS TO BE BOUND BY PERSONNEL POLICY

This is a contract between the Selectboard of the Town of Grand Isle and [*insert name and title of independently elected officer*], collectively referred to as "the parties."

[*Insert name*] agrees to be bound by the provisions of the Town of Grand Isle Personnel Policy, except the provisions on Probationary Period, Performance Evaluations, Employee Discipline, and Employee Termination.

[*Insert name*] agrees as follows:

- [*she/he/they*] has received a copy of the Town's Personnel Policy and understands that it is [*her/his/their*] responsibility to familiarize [*herself/himself/themself*] with its contents;
- [*she/he/they*] has been given an opportunity to ask questions about said policy and has been provided with satisfactory information in response to those questions;
- [*she/he/they*] acknowledges that the Town reserves the right to add, amend or discontinue any of the provisions of the Town's Personnel Policy for any reason or reason, in whole or in part, at any time, with or without notice;
- [*she/he/they*] acknowledges that [*she/he/they*] understands the Town's Personnel Policy and agrees that [*she/he/they*] will comply with all of its provisions including those related to paid time off (PTO).

The parties agree that this shall not constitute a contract for employment.

[*If applicable, insert the following: "In addition to the above, [name] agrees that [her/his/their] statutory assistant, [name], who holds the position of [insert title], will be subject to the Town's Personnel Policy except the provisions on Probationary Period, Performance Evaluations, Discipline, and Termination, which do not apply to [him/her/them]."*]

Entered into this _____ day of _____, 20____

BY: Independently-Elected Official:

Selectboard:

[Handwritten signature]

Ronnie Burphey

Jan Lee

Nancy J. Allen

Ellen Hourigan

ADDENDUM C: CONFLICT OF INTEREST POLICY

Article 1. Authority. Under the authority granted in 24 V.S.A. § 2291(20), the Town of Grand Isle hereby adopts the following policy concerning conflicts of interest.

Article 2. Purpose. The purpose of this policy is to ensure that the business of this municipality will be conducted in such a way that no public officer of the municipality will gain a personal or financial advantage from their work for the municipality and so that the public trust in its officers will be preserved. It is also the intent of this policy to ensure that all decisions made by public officers are based on the best interests of the municipality.

Article 3. Application. This policy applies to all individuals elected or statutorily appointed to perform executive, administrative, legislative, or quasi-judicial functions of the Town of Grand Isle.

Article 4. Definitions. For the purposes of this policy, the following definitions shall apply:

A. **Conflict of interest** means any of the following:

1. A real or seeming incompatibility between a public officer's private interests and their public or fiduciary interests to the municipality they serve. A conflict of interest arises when there is a direct or indirect personal or financial interest of a public officer or a person or group closely tied with the officer including their spouse, domestic partner, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother- or sister-in-law, business associate, or employer or employee in the outcome of an official act or action, or any other matter pending before the officer or before the public body in which the public officer holds office. A conflict of interest may take any of the four following forms:
2. A direct financial conflict of interest arises when a public officer acts on a matter that has a direct financial impact on that officer.
3. An indirect financial conflict of interest arises when a public officer acts on a matter that has a financial impact on a person or group closely tied to the officer.
4. A direct personal conflict of interest arises when a public officer acts on a matter that has a direct impact on the officer in a non-financial way but is of significant importance to the officer.

- B. **Emergency** means an imminent threat or peril to the public health, safety, or welfare.
- C. **Ex Parte Communication** means direct or indirect communication between a member of a public body and any party, party's representative, party's counsel or any person interested in the outcome of a quasi-judicial proceeding, that occurs outside the proceeding and concerns the substance or merits of the proceeding.
- D. **Official act or action** means any legislative, administrative or quasi-judicial act performed by any public officer while acting on behalf of the municipality. This term does not apply to ministerial acts or actions wherein no discretionary judgment is exercised.
- E. **Public body** means any board, council, commission, or committee of the municipality.
- F. **Public interest** means an interest of the municipality, conferred generally upon all residents of the municipality.
- G. **Public officer** means a person elected or statutorily appointed to perform executive, administrative, legislative, or quasi-judicial functions for the municipality. This term does not include municipal employees.
- H. **Quasi-judicial proceeding** means a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunities to present evidence and to cross-examine witnesses presented by other parties, and which results in a written decision, the result of which is appealable by a party to a higher authority.

Article 5. Prohibited Conduct.

- A. A public officer shall not participate in any official act or action if they have a conflict of interest, whether real or perceived, in the matter under consideration.
- B. A public officer shall not personally – or through any member of their household, business associate, employer or employee – represent, appear for, or negotiate in a private capacity on behalf of any person or organization that has an interest in an official act or action pending before the public body in which the public officer holds office.
- C. A public officer shall not accept gifts or other offerings for personal gain by virtue of their public office that are not available to the public in general.
- D. A public officer will not request or accept any reward, gift, or favor for taking an official act or action or advocating for or against an official act or action.

- E. A public officer shall not use resources unavailable to the general public – including but not limited to municipal staff time, equipment, supplies, or facilities – for private gain or personal purposes.
- F. A public officer who is a member of a public body shall not give the impression that they have the authority to make decisions or take actions on behalf of that body.

Article 6. Disclosure. A public officer who, while serving on a public body, may have a conflict of interest, whether real or perceived, in a matter under consideration by that public body shall, prior to taking an official act or action or participating in any official act or action on the matter, publicly disclose at a public meeting or public hearing that they have an actual or perceived conflict of interest in the matter under consideration and disclose the nature of the actual or perceived conflict of interest. Alternatively, a public officer may request that another public officer recuse themselves from a matter due to a conflict of interest, whether real or perceived.¹

Article 7. Consideration of Recusal. Once there has been a disclosure of an actual or perceived conflict of interest, other public officers shall be afforded an opportunity to ask questions or make comments about the situation. If a previously unknown conflict is discovered during a meeting or hearing conducted by a public body of the municipality, the public body shall take evidence pertaining to the conflict and, if appropriate, adjourn to an executive session to address the conflict.

Article 8. Recusal.

- A. **Recusal of Appointed and Elected Officers.** After taking the actions listed in Articles 6 and 7, a public officer, whether appointed or elected, shall declare whether they will recuse themselves and explain the basis for that decision. If the public officer has an actual or perceived conflict of interest but believes that they are able to act fairly, objectively, and in the public interest, in spite of the conflict, they shall state why they believe that they are able to act in the matter fairly, objectively, and in the public interest.² Otherwise, the public officer shall recuse themselves from the matter under

¹ Such request shall not be considered an order for the officer to recuse himself.

² Each member of an elected public body is independently elected and answers only to the voters. Therefore, unless there is a local ordinance or charter provision that states otherwise, the remaining members of the body may not force recusal. They may only express their opinion about the subject and/or privately or publicly admonish a fellow member who fails to handle conflicts appropriately.

consideration. A public officer that recuses themselves may, but not must, explain the basis for that decision.

- B. **Recusal of Appointed Officers.** The failure of an appointed public officer to recuse themselves in spite of a conflict of interest, whether real or perceived, may be grounds for discipline or removal from office.³

Article 9. Recording. The minutes of the meeting or the written decision / minutes from the meeting/hearing shall document the actions taken in Articles 6 through 8.

Article 10. Post-Recusal Procedure.

- A. A public officer who has recused themselves from participating in an official act or action by a public body shall not sit with the public body, deliberate with the public body, or participate in the discussions about that official act or action in any manner in their capacity as a public officer, though such member may still participate as a member of the public or private party, if applicable.
- B. The public body may adjourn the proceedings to a time, date, and place certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the total membership of the public body. The public body may then resume the proceeding with sufficient members present.

Article 11. Enforcement.

- A. **Enforcement Against Elected Officers; Consequences for Failure to Follow the Conflict-of-Interest Procedures.** In cases in which an elected public officer has engaged in any of the prohibited conduct listed in Article 5, or has not followed the conflict-of-interest procedures in Articles 6 through 10, the Town of Grand Isle Select Board may, in its discretion, take any of the following disciplinary actions against such elected officer as it deems appropriate:
 - 1. The chair of the Town of Grand Isle Select Board may meet informally with the public officer to discuss the possible conflict of interest violation. This shall not take place in situations where the chair and the public officer together constitute a quorum of a public body.

³ Certain appointed public officers such as a Zoning Administrator and members of the Zoning Board of Adjustment or Development Review Board may only be removed for cause and after being afforded with procedural due process protections including notice and a reasonable opportunity to be heard.

2. The Town of Grand Isle Select Board may meet to discuss the conduct of the public officer. Executive session may be used for such discussion in accordance with 1 V.S.A. § 313(a)(4). The public officer may request that this meeting occur in public. If appropriate, the Town of Grand Isle Select Board may admonish the offending public officer in private.
3. The Town of Grand Isle Select Board may admonish the offending public officer at an open meeting and reflect this action in the minutes of the meeting. The public officer shall be given the opportunity to respond to the admonishment.
4. Upon majority vote in an open meeting, the Town of Grand Isle Select Board may request (but not order) that the offending public officer resign from his or her office.

B. Enforcement Against Appointed Officers. The Town of Grand Isle Select Board may choose to follow any of the steps articulated in Article 11A. In addition to or in lieu of any of those steps, the Town of Grand Isle Select Board may choose to remove an appointed officer from office, subject to state law, and the provisions of this Personnel Policy.

Article 12. Exception. The recusal provisions of Article 8 shall not apply if the Town of Grand Isle Select Board determines that an emergency exists or that actions of a quasi-judicial public body otherwise could not take place. In such a case, a public officer who has reason to believe they have a conflict of interest shall only be required to disclose such conflict as provided in Article 6.

Article 13. Effective Date. This policy shall become effective immediately upon its adoption by the Town of Grand Isle Select Board.

Signatures:

Date: _____

ADDENDUM D: GRAND ISLE, VERMONT DRUG & ALCOHOL POLICY FOR CMV OPERATORS

INTRODUCTION

This policy applies to employees and prospective employees of the Town of Grand Isle, VT who operate commercial motor vehicles (CMVs) or who will operate CMVs if they are hired, transferred, or promoted. Employees and prospective employees are not subject to this policy by virtue of holding a CDL unless their job duties may require them to operate a CMV. All other municipal employees are subject to the provisions of the municipality's Personnel Policy regarding alcohol and drug use and testing, if applicable. This policy was developed based on the requirements articulated by the U.S. Department of Transportation (DOT) in Title 49, of the Code of Federal Regulations (CFR).

Section 1: Applicability

This policy applies to all Town employees and prospective employees who operate commercial motor vehicles (CMVs) while engaged in any municipal business. This policy supersedes any provisions in the Town's Personnel Policy regarding the consequences of the possession or use of drugs and alcohol as they pertain to CMV operators. For purposes of this policy, commercial motor vehicle or CMV means a motor vehicle or combination of motor vehicles as follows:

- Any single vehicle with a gross vehicle weight rating (GVWR) of 26,001 pounds or more.
- A combination vehicle with a gross combination weight rating (GCWR) of 26,001 or more pounds, provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.
- A vehicle designed to transport 16 or more passengers (including the driver). Any size vehicle which requires hazardous material placards or is carrying material listed as a select agent or toxin in 42 CFR part 73.

Individuals operating the above vehicles must have a valid commercial driver's license (CDL). Note that emergency vehicles (*e.g.* fire apparatus are not CMVs).

Each employee who is subject to this policy is required to sign an acknowledgement that he or she has been provided with a copy of this policy. This acknowledgement will be maintained in the Town's personnel files as part of the driver qualification file. An acknowledgement form is included as **Appendix C**.

Given the varied nature of municipal needs, employees who are employed to operate CMVs have the potential to serve in safety-sensitive functions during any

part of their job. Therefore, employees are subject to this policy at all times while they are actively working and during periods when they may be called into work (e.g. to respond to weather-related incidents, respond to emergency situations, etc.). Safety-sensitive functions and other terms are defined in **Appendix A: Definitions**.

Regarding the Town of Grand Isle's on call policy, please refer to the Town's Personnel Policy, Section 6, Hours of Service.

Section 2: Responsibility for Employee Information

The Road Commissioner has been designated by the Selectboard to be the individual who can provide employees with information regarding this Drug & Alcohol Policy and answer related questions on pertinent issues. Employees may also obtain information about applicable Federal regulations from Section 49 of the Code of Federal Regulations (CFR). Sources of information are provided in **Appendix B** of this policy.

Section 3: Prohibited Conduct

Conduct listed in this section is prohibited.

- Having a verified positive, adulterated or substituted drug test result.
- Performing safety-sensitive functions after notification of a verified positive, substituted, or adulterated drug test result or an EBT alcohol test result indicating a measured alcohol concentration of 0.02% or greater, regardless of when the drug or alcohol was ingested and regardless of whether or not the driver is under the influence of alcohol or using drugs, as defined in federal, state or local law.
- Reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.
- Consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. An on-call employee who has consumed alcohol must acknowledge the use of alcohol at the time that they are called to report for duty.
- Consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- Misusing or being impaired by authorized or prescribed use of drugs or over-the-counter medications which may affect work performance or pose a danger to the safety of the driver or to others. Drivers are required to inform the employer's designated representative of any therapeutic drug use that has the potential to impact the safe operation of equipment or motor vehicles.

- In cases where prescribed medication labeling suggests that machinery operation or driving may be compromised in any way, the driver shall obtain written authorization from the prescribing physician indicating that the driver can safely operate a CMV while using the substance. This must be provided to the municipality prior to operation of said CMV while using the prescribed substance(s).
- Reporting to work or remaining on duty requiring the performance of safety sensitive duties while having an alcohol concentration of 0.02% or greater regardless of when the alcohol was consumed.
- Consuming alcohol for eight (8) hours following involvement in an accident or before submitting to any required post-accident drug/alcohol testing, whichever occurs first.
- Engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace including municipal premises, vehicles, while in uniform or while on municipal business.
- Refusal to submit to alcohol or drug testing, as defined in Section 4, below.

Section 4: "Testing Refusal" Defined

Under federal law, a test refusal is considered as a positive test and has the same consequences. An employee or prospective employee is considered to have refused a test when they do any of the following:

- Fails to appear for any test within a reasonable time, as determined by the employer or testing pool administrator, after being directed to do so by the employer;
- Fails to remain at the testing site until the testing process is complete;
- Fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;
- In the case of an observed collection in a drug test, fails to permit the observation or monitoring of the collection of a specimen;
- Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails to provide an adequate amount of saliva or breath for any alcohol test required, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second test that the employer or collector has directed the employee to take;
- Fails to undergo a medical examination or evaluation, as directed by the medical review officer (MRO) as part of the verification process, or as directed by the DER as part of the "shy bladder" procedures;

- Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process);
- If the MRO reports that there is verified adulterated or substituted test result.

Section 5: Testing

All testing and specimen collection prescribed under this policy will be done in accordance with federal requirements. Prescribed testing includes pre-employment, random, reasonable suspicion, post-accident, return to duty, and follow-up, if applicable.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner, and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

Section 5a: The Drug Testing Process

The drug testing process will screen for drugs including marijuana, cocaine, opioids, amphetamines, and phencyclidine. The use of certain over-the-counter medications and other substances may result in a positive test.

After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection procedure.

Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a DHHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

The test results from the DHHS certified laboratory will be reported to a Medical Review Officer (MRO). The MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test

results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a verified positive, substituted, or adulterated test result. The MRO will:

- Attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result.
- Review any medical history and/or medical records that have been offered by the employee to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be confirmed as a verified positive or a refusal to test and reported to the Town's Designated Employer Representative (DER). If a legitimate explanation is found, the MRO will report the test result as negative to the DER and no further action will be taken. If the test is invalid without a medical explanation, a retest will be conducted under direct observation.

Any covered employee who questions the results of a required drug test performed under this policy may request that the split specimen be tested. The employee's request for a split specimen test must be made to the MRO within 72 hours of notice of the original specimen verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts beyond the control of the employee.

The original collected urine specimen is split into 2 specimens (primary specimen and split specimen) prior to testing, expressly for this purpose. The split specimen test must be conducted at a second DHHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split specimen that was provided by the employee at the same time as the primary specimen. The method of collecting, storing, and testing the split specimen will be consistent with the procedures set forth in 49 CFR Part 40, as amended.

- If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct a retest of the employee under direct observation. The retest must occur as quickly after notification as possible.
- The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen tests negative, the split specimen will be discarded. If the primary specimen tests positive,

the split specimen will be retained for testing if requested by the employee through the MRO. If the primary specimen is positive, both the primary and split specimens will be retained in frozen storage for one year.

Section 5b: Observed Collections

Consistent with 49 CFR Part 40, collection under direct observation by a person of the same gender with no advance notice will occur in any of the following circumstances:

- The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the municipality that there was not an adequate medical explanation for the result;
- The MRO reports to the municipality that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- The test is a return-to-duty test or a follow-up test;
- The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- The temperature of the original specimen was out of range; or
- The original specimen appeared to have been tampered with.

Section 5c: The Alcohol Testing Process

Tests for breath alcohol concentration will be conducted by a trained Breath Alcohol Technician (BAT) using a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT).

If the initial test results indicate that alcohol is present, a confirmatory test will be conducted at least fifteen minutes after the completion of the initial test and will be performed by a trained BAT using a NHTSA-approved EBT. The EBT will identify each test with a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the testing, all results, and to attribute the test to the correct employee.

The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee, to maintain the integrity of the alcohol testing procedures and ensure the validity of the test result. An employee who has a confirmed alcohol concentration of 0.04% or higher will be considered to have a positive alcohol test and will be in

violation of this policy. The consequences of a positive alcohol test are described in Section 6: Consequences of a Positive Test.

An employee undergoing alcohol testing who does not provide a sufficient amount of breath to permit a valid breath test will be directed to obtain an evaluation within 5 days, from a licensed physician who has expertise in the medical condition raised by the employee's failure to provide a sufficient specimen. The results of this evaluation will be reviewed by the MRO to determine the result of the test. Even though an employee who has a confirmed alcohol concentration of 0.02% to 0.039% is not considered to have had a positive test, the employee shall still be removed from safety-sensitive duties for twenty-four hours. Subsequent to the required 24-hour removal, the employee will:

- Meet with Road Commissioner to review the need to avoid alcohol use from any source during or preceding work hours.
- If the employee has an alcohol test result of 0.02% to $\leq 0.039\%$ two or more times within a six-month period, the employee will again meet with a municipal representative from the list above to review the need to avoid alcohol use. The employee will be provided with contact and related information for the EAP program (currently Invest EAP). There is no requirement that the employee access those services.

An alcohol concentration of less than 0.02% will be considered a negative test.

The municipality affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not affect the test result will not result in a cancelled test.

Section 5d: Pre-employment Testing

When an individual applies to work for the Town in a position that involves the operation of a CMV, or when a municipal employee is under consideration for a position that involves the operation of a CMV, that person will be required to undergo pre-employment urine drug testing. All offers of employment and offers for transfer for covered positions shall be conditional upon the applicant passing the drug test. Pre-employment testing must be completed prior to the individual

working in a new position. Pre-employment drug testing will be accomplished by providing advance notice of the test schedule and location to the position applicant. The length of the advance notice period will be kept as short as is reasonably

feasible to coordinate and complete the test. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. Prior to future consideration for employment performing safety sensitive duties, the municipality must receive evidence from a substance abuse professional that meets with the requirements 49 CFR Part 40 as amended, regarding the absence of drug dependency. A negative pre-employment drug test will also be required. Any applicant who fails a pre-employment drug test will be provided with the results of the test along with the current Invest EAP brochure. This serves to provide the individual with information about substance abuse treatment opportunities.

When an existing employee is being placed, transferred, or promoted into a position that is covered by this policy and that person submits a drug test with a verified positive result, the employee may be subject to disciplinary action as outlined in the Town's Personnel Policies. That employee will also be eliminated from consideration for the position which triggered the need for the pre-employment test.

If a pre-employment/pre-transfer test is canceled for any reason, the applicant will be required to take and pass a pre-employment drug test before the individual is placed into a covered CDL position or performs safety sensitive duties.

FMCSA Clearinghouse

Effective January 6, 2020, in accordance with 49 CFR, all drivers shall be subjected to a query by the Town of the FMCSA Clearinghouse prior to employment as well as yearly throughout the driver's employment with

Drivers should also note that the following information will be reported to the Clearinghouse by both the Medical Review Officer, the Consortium/TPA and/or the Town. Drivers who fail to provide the necessary authorization to complete the initial or annual query will be subject to termination.

- A verified positive, adulterated, or substituted drug test result;
- An alcohol confirmation test with a concentration of 0.04 or higher;
- A refusal to submit to a drug or alcohol test;
- An employer's report of actual knowledge, as defined at 49 CFR § 382.107;
- On -duty alcohol use pursuant to 49 CFR § 382.205;
- Pre-duty alcohol use pursuant to 49 CFR § 382.207;
- Alcohol use following an accident pursuant to 49 CFR § 382.209;
- Drug use pursuant to 49 CFR § 382.213;
- SAP's report of the successful completion of the return-to-duty process;
- A negative return-to-duty test; and,

- An employer's report of completion of follow-up testing.

Section 5e: Random Testing

All municipal CDL drivers are placed in the VLCT PACIF-sponsored Drug & Alcohol Testing Consortium that is operated by the third-party administrator, Occupational Drug Testing, LLC (ODT). These employees are subject to random, unannounced testing. There is no discretion on the part of the employer or supervisor in the selection and notification of the individuals who are to be tested. The selection of employees is made by a scientifically valid method of randomly generating an employee identifier from the pool of covered employees. The dates for administering unannounced testing are randomly selected each quarter, with a minimum percentage of the pool's drivers selected for drug testing, alcohol testing, or both as required by Federal regulations and updated each calendar year. Random drug tests can be conducted at any time during an employee's shift. Random alcohol tests can be performed just before, during, or just after the performance of a safety-sensitive duty. Employees are required to proceed immediately to the collection site or make themselves immediately available to collectors when they are notified that they have been selected for testing.

Section 5f: Reasonable Suspicion Testing

All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when there is a reasonable suspicion to believe that drug or alcohol use is occurring, has recently occurred, or that the person is under the influence of

drugs or alcohol. "Reasonable suspicion" shall mean that there is objective evidence, based upon specific, contemporaneous, describable observations of the employee's appearance, behavior, speech, or body odor that are consistent with possible drug use and/or alcohol misuse.

Reasonable suspicion drug test referrals will only be made by a supervisor or other designated individual with employee monitoring and assignment responsibilities who has received "reasonable suspicion training" in accordance with FMCSA regulations. The training ensures that supervisors or other designated employees with similar responsibilities have the skills and knowledge to objectively detect the signs and symptoms of drug and alcohol use in employees covered by this policy. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. A reasonable suspicion drug test can be performed any time the covered employee is on duty. The Road Commissioner shall be notified immediately when a supervisor or other person reasonably suspects a drug test referral is necessary. The Town of Grand

Isle shall be responsible for transporting the employee who will be tested to a suitable testing site identified by ODT.

Transport shall include travel to and from the location and to the individual's residence, as they should not be permitted to drive or work when they may be under the influence of a drug or alcohol.

Supervisors should avoid placing themselves and/or others in a situation which might endanger the physical safety of those present. An employee who refuses an instruction to submit to a reasonable suspicion drug/alcohol test shall not be permitted to finish their shift and will be subject to other employment consequences up to and including termination. Failure to submit to a reasonable suspicion test is prohibited conduct (test refusal), the consequences of which are outlined in Section 6: Consequences of a Positive Test. The Road Commissioner shall be notified when test refusal occurs.

A written record of the observations that led to a reasonable suspicion drug/alcohol test shall be prepared and signed by the supervisory individual making the observation and provided to the Road Commissioner. This record shall be prepared prior to the release of the test results. This written record shall be submitted to and maintained by the Grand Isle Town Clerk.

Section 5g: Post Accident Testing

All covered employees will be required to undergo post-accident urine and breath testing if they are involved in an accident with a CMV that meets the criteria outlined in the following chart:

If the accident involved any of the following:	Qualifying event: Was a citation issued to the CMV driver?	Must test be performed by employer?
Human fatality	YES	YES
Human fatality	NO	YES
Bodily injury with immediate medical treatment away from the scene.	YES	YES
Bodily injury with immediate medical treatment away from the scene.	NO	NO

Disabling damage to any motor vehicle requiring tow away.	YES	YES
Disabling damage to any motor vehicle requiring tow away.	NO	NO

All post-accident drug and alcohol testing should be completed within two (2) hours of the accident.

If an alcohol test required by this section is not administered within two (2) hours following the accident, the Town will document and maintain a record stating the reason(s) why the test was not promptly administered. If an alcohol test required by this section is not administered within eight (8) hours following the accident, the municipality will cease attempts to administer an alcohol test and will document the conditions that led to the time delay and failure to test.

If a drug test required by this section is not administered within thirty-two (32) hours following the accident, the municipality will cease attempts to administer a controlled substances test and will document and maintain a record stating the reasons the test was not given within the required time frame.

Section 6: Consequences of a Positive Test

The medical review officer will report positive test results to the DER only after verifying the test results as outlined in 49 CFR, Part 40 as amended.

When the DER is notified of this positive test result, the employee will be immediately suspended from operating CMVs and other safety-sensitive duties for the municipality and will be referred to a Substance Abuse Professional (SAP) for substance abuse assessment and/or treatment.

On the day that the positive test results are received, the employee will be suspended from all duties with pay. Subsequent to that, the employee may be suspended without pay. The employee's length of suspension will run the period of time in which it takes the individual to satisfactorily complete the treatment (as confirmed by the treating SAP) and may last for up to three (3) months from the date the positive test result was received. After that period, if the employee has not successfully completed treatment, the employee may be terminated.

Any employee who has an initial positive test and has the split sample tested and obtains a negative result will immediately be permitted to return to their normal job duties.

An employee who provides written documentation from an SAP that substance abuse treatment has been satisfactorily completed within the 3-month suspension period must fulfill all return to duty testing requirements in Section 7: Return to Duty Testing prior to performing any safety-sensitive duties. Follow-up testing will also be required as directed by the SAP.

An employee who has a second positive test after completing return to duty testing may be terminated.

Section 7: Return to Duty Testing

Covered employees having a positive test will not be permitted to return to duty (to safety sensitive functions) until after a substance abuse professional has determined that the employee has successfully complied with prescribed education and/or treatment. The SAP will authorize the return to duty testing only when the employee is known to be drug and alcohol-free and there is no risk to public safety. The SAP will provide written documentation that the treatment has been completed and that the employee may undergo return to duty testing. The employee will then be allowed to take a return-to-duty test, as directed by the treating SAP. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before they may return to duty. For an initial positive drug test, a return to duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test, a return to duty alcohol test is required and a drug test is allowed. Return to duty testing **MUST** be performed under direct observation.

Section 8: Follow-Up Testing

After satisfactory completion of return to duty testing, the driver is required to submit to at least six (6) follow up tests during the first twelve (12) months after resuming safety sensitive duties. Follow-up testing may be required for up to sixty (60) months unless the substance abuse professional determines that testing is no longer warranted. The number and frequency of follow-up tests will follow the written guidance provided by the treating SAP. All follow-up tests are unannounced and may include testing for drugs and/or alcohol.

Follow-up alcohol testing will be conducted only when the driver is performing or just before performing safety sensitive functions, or just after the driver has ceased performing safety-sensitive functions.

Follow-up testing **MUST** be performed under direct observation. Follow-up testing is separate from and in addition to random, post-accident, reasonable suspicion, and return to duty testing.

Section 9: Employee Information

Employees are encouraged to seek information regarding the effects of alcohol and controlled substances and their health, employment, and personal life. Such information is available at:

<https://www.investeap.org/>

www.dot.gov/odapc/employee-handbook-english

<https://www.samhsa.gov/>

<https://www.fmcsa.dot.gov/regulations/drug-alcohol-testing/overview-drug-and-alcohol-rules>

Addendum D Appendix 1: Definitions

Accident means an occurrence associated with the operation of a CMV, if as a result:

- An individual dies, or
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident, or,
- One or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle. For purposes of this definition, disabling damage means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include:
 - damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, or
 - tire disablement without other damage even if no spare tire is available, or
 - damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Adulterated specimen is a specimen that has been altered, as evidenced by test results showing either a substance that is not normally found in that type of specimen or showing an abnormal concentration of a substance that is normally found in that specimen.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food preparation or medication.

Alcohol Concentration is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device (EBT).

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce, to transport passengers, or property if the motor vehicle:

- Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
- Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Covered Employee means an employee who performs a safety-sensitive function including an applicant or transferee who will be hired to perform a safety-sensitive function. Employees who operate CMVs are considered to be performing safety-sensitive functions.

Medical Review Officer (MRO) means a licensed physician (medical doctor or doctor of osteopathy) who is responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with their medical history and any other relevant bio-medical information.

Negative test result for a drug test means a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02%BAC is a negative test result.

Negative Dilute is a drug test specimen showing a creatinine level of greater than 5mg/dl and less than 20 mg/dl.

Non-negative test result is a test result found to be adulterated, substituted, invalid, or positive for a drug or drug metabolites. Non-negative results are considered a positive test or a refusal to test if the MRO cannot determine a legitimate medical explanation for the result or the refusal.

Observed Collection means the donor will provide their sample under the direct observation of either a collector or another individual of the same gender. The donor must raise their shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that they do not have a prosthetic device. After the observer has determined that the donor does not have a prosthetic device, the donor may return their clothing to its proper position for observed urination.

Positive test result for a drug test means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, Section 40.87 as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04%BAC or greater. Any positive test result reported to the DER by the medical review officer is verified by the MRO prior to reporting.

Primary specimen. In drug testing, the primary specimen is the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in their system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

Prohibited drug means marijuana, cocaine, opiates, amphetamines, phencyclidine, or MDMA (ecstasy) at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Safety-sensitive function includes the timeframe that begins when a driver starts work or is required to be in readiness to work until the time they are relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Shy Bladder refers to any time a safety-sensitive employee is unable to provide a 45ml. sample of urine in a single void within a three-hour time period.

Split specimen. In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

Substance Abuse Professional (SAP) means a licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Verified negative test means a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established in DOT Rule 49 CFR Part 40 Section 40.87 as revised.

Validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

Addendum D Appendix 2: Contacts & Information

DISA (formerly OCCUPATIONAL DRUG TESTING, LLC)

Manchester, NH
800-211-4469

VLCT/PACIF

Risk Management Services
89 Main St. Montpelier, Vermont 05602
802-229-9111

INVEST EAP (SAP services)

108 Cherry Street, Suite 203
Burlington, Vermont 05401
MAIN OFFICE: 888.392.0050
FAX: 802.863-7515
staff@investeap.org

Employee Access to Information

49 CFR part 40 and 49 CFR part 382 must be available upon request to covered employees and representatives of employee organizations. 49 CFR part 40 is accessible online at <https://www.transportation.gov/odapc>, or by fax on demand at 1-800-225-3784 requesting document 151; by phone at 1-866-512-1800; or by writing to U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 400 Seventh Street SW, Room 10403, Washington, D.C. 20590.

Addendum D Appendix 3: CMV Drug & Alcohol Testing Policy-Acknowledgement Form

Grand Isle, Vermont

I HEREBY ACKNOWLEDGE that I have received a copy of and read and understand my employer's **CMV Drug & Alcohol Testing Policy**. I understand that I must abide by its terms as a condition of employment. I understand that during my employment I may be required to submit to a controlled substances and/or alcohol test based on U.S. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations.

I also understand that refusal to submit to a controlled substances or alcohol test is a violation of DOT regulations and the above referenced policy and may result in disciplinary action, up to and including suspension (with or without pay) and termination of employment for gross and willful misconduct. I further understand the consequences of controlled substances and/or alcohol use as outlined in this policy.

I acknowledge that the provisions of my employer's CDL Drug and Alcohol Policy are part of the terms and conditions of my employment, and that I agree to abide by them.

By signing below, I also acknowledge that I understand the meaning of this form and agree that it will be used to document my understanding of the CDL Drug & Alcohol Testing Policy.

Printed Name of Employee/Applicant: _____

Signature of Employee/Applicant: _____

Employee/Applicant CDL ID #

Date: _____

Witness Signature: _____

Date: _____

Original Acknowledgment of Receipt and Understanding will be kept in the Driver's Qualification File. Check here to confirm copy given to employee/applicant.

Addendum D Appendix 4: Drug Cutoff & Testing Limits as per DOT Rule 49 CFR Part 40 Section 40.87

Initial test analyte	Initial test cutoff¹	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) ²	50 ng/mL ³	THCA	15 ng/mL.
Cocaine metabolite (Benzoylecgonine)	150 ng/mL ³	Benzoylecgonine	100 ng/mL.
Codeine/ Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL. 2000 ng/mL.
Hydrocodone/ Hydromorphone	300 ng/mL	Hydrocodone Hydromorphone	100 ng/mL. 100 ng/mL.
Oxycodone/ Oxymorphone	100 ng/mL	Oxycodone Oxymorphone	100 ng/mL. 100 ng/mL.
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamine/ Methamphetamine	500 ng/mL	Amphetamine Methamphetamine	250 ng/mL. 250 ng/mL.
MDMA ⁴ /MDA ⁵	500 ng/mL	MDMA MDA	250 ng/mL. 250 ng/mL.

¹For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

²An immunoassay must be calibrated with the target analyte, Δ -9-tetrahydrocannabinol-9-carboxylic acid (THCA).

³*Alternate technology (THCA and Benzoylecgonine)*: When using an alternate technology initial test for the specific target analytes of THCA and Benzoylecgonine, the laboratory must use the same cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100ng/mL for Benzoylecgonine).

⁴Methylenedioxyamphetamine (MDMA).

⁵Methylenedioxyamphetamine (MDA).

NOTE: These cutoff limits may be subject to periodic revision by DOT.

[65 FR 79526, Dec. 19, 2000, as amended at 75 FR 49862, Aug. 16, 2010; 77 FR 26473, May 4, 2012; 82 FR 52244, Nov. 13, 2017]