

**TOWN OF LAGRANGE**  
**TOWN EMPLOYEE POLICIES**

**ORDINANCE TO ESTABLISH CERTAIN PERSONNEL  
POLICIES GOVERNING THE CONDUCT AND COURSE  
OF EMPLOYMENT OF EMPLOYEES OF  
THE TOWN OF LAGRANGE, INDIANA**

**ADOPTED AUGUST 20, 2007**

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**THE TOWN OF LAGRANGE HEREBY ESTABLISHED THE FOLLOWING  
PERSONNEL POLICIES WHICH SHALL GOVERN ALL OF THE FULL-TIME,  
PART-TIME AND SEASONAL EMPLOYEES OF THE TOWN OF LAGRANGE, AND  
SHALL READ AS FOLLOWS:**

**I. A. GENERAL INFORMATION**

The policies and provisions contained in this employment handbook shall apply to all Town of LaGrange ("Town") employees except to the extent that specific procedures or conditions of employment, benefits, and compensation for certain employees are expressly provided for by a local ordinance or department policy approved by the Town Council after the revision date shown on this handbook, preemptive state law, or preemptive federal law which shall control.

Except to the extent otherwise required by state statute, employment with the Town is "at-will" and can be terminated by either party to the employment relationship at any time, with or without prior notice, and for any reason, with or without cause. Any oral statements, promises, or assurances contrary to the "at-will" status of each employee are not binding on the Town and may not be relied upon by any employee or job applicant. If you believe assurances of employment for a specific time or continued employment have been made, contact the Town Council for clarification. The Town shall not be responsible for, or be bound by, any statements, promises, or assurances that are not confirmed in writing by the Town Council.

Statements or representations made or contained in any employment application, prospective employee interview, handbook, training manual or any other written policy or procedure do not constitute or imply an employment agreement and should not be relied upon by the employee or employment applicant under any circumstances which are contrary to the Town's "at-will" employment policy.

This handbook cannot anticipate every situation or answer every question about employment with the Town. It is not an employment contract and is not intended to create contractual obligations of any kind. In order to retain necessary flexibility in the administration of policies and procedures, the Town reserves the right to change, revise, or eliminate any of the policies and/or benefits described in this handbook. The policies stated in this handbook supersede any prior handbooks or written policies of the Town that are inconsistent with its provisions.

## **B. GENERAL EMPLOYMENT CLASSIFICATIONS**

All personnel of the Town of LaGrange shall be designated and classified as full-time, part-time, or seasonal.

1. Full-time employee: Any municipal employee working thirty-two (32) hours or more per week and for a period of more than 12 weeks consecutively may be considered a full-time employee of the Town and receive all benefits listed hereafter for full-time employees when approved or designated by the Town Council.

2. Part-time employee: Any municipal employee working less than thirty-two (32) hours per week for more than sixteen (16) weeks consecutively will be considered a part-time employee of the Town and will receive only those benefits hereinafter specified for part-time employees.

3. Seasonal employee: Any municipal employee working less than sixteen (16) weeks continuously, in a position not deemed to be a permanent or year-round position will be considered as a temporary employee of the Town, and will receive only those benefits hereinafter specified for seasonal employees.

## **II. EQUAL EMPLOYMENT OPPORTUNITY/SEXUAL HARASSMENT POLICY**

### **A. Equal Employment Policy**

1. This Equal Employment Opportunity Policy reaffirms the policy and commitment of the Town to provide equal employment opportunities for all employees and job applicants. The Town endorses and will follow its EEO Policy in implementing all employment practices, policies, and procedures.
2. The Town will recruit, hire, train and promote persons in all job titles without regard to race, color, religion, national origin, sex, age (except where sex or age is a bona-fide occupational qualification, as defined by law), or physical or mental disability (except where the disability prevents the individual from being able to perform the essential functions of the job and cannot be reasonably accommodated in full compliance with the law). The Town will make employment decisions as to further the principle of equal employment opportunity. The Town will ensure that all personnel decisions and actions, including but not limited to compensation, benefits, transfers, promotions, layoffs, returns from layoff, terminations, Town-sponsored training, education, tuition

assistance, and social and recreation programs will be administered without regard to race, color, religion, sex, age, national origin, or disability.

3. All employees are expected to comply with our Equal Employment Opportunity Policy. Managers and supervisors who are responsible for meeting Town objectives are expected to cooperate fully in meeting our equal employment opportunity objectives, and their overall performance will be evaluated accordingly.

#### **B. Sexual Harassment Policy**

1. In providing a productive work environment, the Town believes that its employees should be able to enjoy a workplace free from all forms of discrimination, including harassment on the basis of race, color, religion, gender, national origin, age, and disability. It is the Town's policy to provide an environment free from such harassment.
2. It is against the policy of the Town for any employee, whether a manager, supervisor, or co-worker, to harass another employee. Prohibited harassment occurs when verbal or physical conduct defaming or showing hostility toward an individual because of his or her race, color, religion, gender, national origin, age, or disability, or that of the individual's relatives, friends or associates, creates or is intended to create an intimidating, hostile, or offensive working environment; interferes or is intended to interfere with an individual's work performance; or otherwise adversely affects an individual's employment opportunities.
3. Harassing conduct includes, but is not limited to:
  - a. Epithets, slurs, negative stereotyping; or threatening, intimidating or hostile acts; which relate to race, color, religion, gender, national origin, age, or disability.
  - b. Written or graphic material that defames or shows hostility or aversion toward an individual or group because of race, color, religion, gender, national origin, age or disability and that is placed on walls, bulletin boards, or elsewhere on the Town's premises, or that is circulated in the workplace.
4. Any employee who believes he or she has been harassed in

violation of this policy should report the conduct immediately to his or her supervisor; or, if that person is responsible for the harassment, to any member of the Town Council. The employee always has the option of reporting the conduct directly to the Town Board if he or she prefers.

### III. **HOURS OF WORK AND COMPENSATION**

#### A. **Work Hours**

1. The daily and weekly work schedules and the number of hours per day and per week to be worked will be determined by the head of each department to meet work requirements.
2. An employee shall advise and obtain permission from their supervisor if they wish to leave during or before the end of any regular work period. It is the employee's responsibility to advise his or her supervisor of the reason for any absence, and a supervisor's responsibility to report such information when submitting the time records to the Clerk-Treasurer. Employees who know they are to be absent should advise the clerk's office at town hall and the department head at least one day before the absence takes place. In the event of illness or other emergencies, they should telephone in this information in order that appropriate adjustments of the work schedule may be made. Employees who are absent and who do not telephone in to their immediate supervisor within one-half (½) hour after starting time in the employee's department on the morning of their absence will be considered absent without leave. Three (3) days of consecutive absence without an approved excuse or without advising the Town will be considered as a resignation, without notice, and the employee will be considered to have voluntarily terminated the employment relationship.
3. The Work Day:
  - a. Breaks: A break generally not to exceed fifteen (15) minutes will be allowed for each employee within each four (4) hours of work.
  - b. Lunch: A thirty (30) minute lunch break shall be allowed each municipal employee that works an eight (8) hour shift, with this break

scheduled to fall approximately during the middle of each employee's shift.

- c. Overtime: Any hourly employee who is not exempt from the provisions of the federal Fair Labor Standards Act will be compensated at the rate of 1 ½ times his normal hourly rate of pay for each hour worked in excess of forty (40) hours per week.
- d. Holiday: An employee called out on a holiday will be compensated at the rate of time and a half of the Employee's regular rate of pay. A holiday shall be defined as an eight (8) hour day and employees of the Town of LaGrange, Indiana shall be compensated for paid holidays on the basis for said definition, with the exception that overtime pay, in addition to holiday pay, will be paid if the employee actually works on the holiday.
- e. Vacation pay: Eligible employees shall be compensated for vacation time and pay at the standard work week rate.
- f. Compensatory Time: When an employee has worked overtime, he or she will be compensated by the payment of the appropriate wage for overtime so worked. Overtime shall be at the rate as is more fully provided above. Compensatory time may only be earned and used within a payroll period by the specific approval of the Town Board. If compensatory time is not taken by December 31, of each year all accumulated time will be lost.

## B. Attendance Policy

1. Punctual and regular attendance are essential functions of each employee's job at the Town. Any tardiness or absence causes problems for fellow employees and supervision. When an employee is absent, his or her work must be performed by others.

2. Employees are expected to report to work as scheduled, on time and prepared to start work. Employees are also expected to remain at work for their entire work schedule, except for break periods or when required to leave on authorized Town business. Late arrival, early departure, or other absences from scheduled hours are disruptive and must be avoided.
3. In all cases of absence or tardiness, employees must provide their supervisor with an honest reason or explanation. Documentation of the reason may be required. Employees also must inform their supervisor of the expected duration of any absence. Without extenuating circumstances, an employee must call in advance of his or her regular starting time on any day on which the employee is scheduled to work and will not report to work.
4. Excessive absenteeism (excused or not) may be grounds for discipline up to and including termination of employment. Each situation of excessive absenteeism or tardiness will be evaluated on a case-by-case basis. However, even one unexcused absence may be considered excessive, depending on the circumstances.

### **C. Leaves**

1. Employees of the Town of LaGrange shall be allowed the following leave times:

- a. Holidays: It shall be the policy of the Town of LaGrange to ensure that all full time employees will be paid for those holidays occurring during their usual tenure of employment at their regular daily rate. Those holidays shall be:

Veteran's Day - 1 day	Independence Day - 1 day
New Year's Day - 1 ½ days	Thanksgiving Day - 2 days
Good Friday - 1 day	Christmas Day - 1 ½ days
Memorial Day - 1 day	President's Day - 1 day
Labor Day - 1 day	

Election days will be a paid holiday for the Utility Office, Clerk-Treasurer, Secretary, Administrative Assistant, and Deputy Clerk. Employees of all other departments will be expected to work on election days.



- b. When any of these holidays fall on a Sunday, the following Monday will be designated as the holiday. If any of these holidays fall on a Saturday, the preceding Friday shall be observed as the holiday.
- a. Any employee absent without authorization of the immediate supervisor on the workday preceding a holiday and/or on the work day following a holiday will not receive paid holiday compensation for the holiday. An employee must be on work status for 90 days prior to the holiday to be entitled to holiday pay.
- d. Any full-time or part-time employee paid on an hourly basis and required to work or render services on a holiday will be compensated in accordance with the Overtime Policy stated above.

2. Vacation: Full Time Employees: Full time employees shall receive the following paid vacation time:

- a. 1 “week” paid vacation after 1 year of employment at the employee’s regular pay rate and regular amount of weekly work hours.
- b. 2 “weeks” paid vacation after 3 years of employment at the employee’s regular pay rate and regular amount of weekly work hours.
- c. 3 “weeks” paid vacation after 10 years of employment at the employee’s regular pay rate and regular amount of weekly work hours.

Scheduling and Approval of Vacation Time:

- a. All vacation time must be approved by the Supervisor at least ten (10) working days prior to the time of vacation. Vacation time must be taken in the calendar year when the employee is eligible and shall not be accrued.
- b. No vacation may be carried over without prior express approval of the LaGrange Town Board. Vacation time is

non-cumulative.

- c. Scheduling of vacations shall meet with the approval of the employee's supervisor. Supervisor approval is required for the department heads and where two (2) employees in the same department are to be on vacation or leave at the same time. Vacations will be scheduled from January through December. Vacation time must be used in the calendar year after which it is earned and may not be carried over beyond the next December 31<sup>st</sup>

#### **D. FMLA Leave**

##### **1. Reasons for FMLA Leave**

The Town of LaGrange complies with all applicable federal and state labor and employment laws, including the Family and Medical Leave Act (FMLA). The FMLA requires the Town to provide up to 12 weeks of unpaid leave during any 12-month period. An eligible employee may take FMLA leave of up to 12 weeks per leave year for one or more of the following reasons:

For the birth of a child;  
For the adoption of a child or the placement of a foster child;  
To care for a sick spouse, child, or parent with a serious health condition; or  
Due to the employee's own serious health condition.

##### **2. FMLA Leave Eligibility**

To be eligible for leave under the FMLA, an employee must have been employed by the Town:

For at least twelve months; and  
For at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

##### **3. Leave Year**

The leave year for the Town of LaGrange is defined as calendar year - January through December.

#### 4. Serious Health Condition

For the purpose of determining whether an eligible employee or his or her spouse, child, or parent has a *serious health condition*, such a condition includes any injury, illness, or physical or mental condition that requires either in-patient care in a medical facility (i.e. overnight hospitalization) or continuing treatment by a health-care provider on at least two occasions concerning the health condition, and that the condition results in more than three days' absence from regular daily activities, including work or school, or, if not treated, would likely lead to such an absence.

#### 5. Intermittent Leave

If the leave is taken for birth or placement of a child for adoption or foster care, the leave may not be taken intermittently or on a reduced leave schedule unless the employee and Town agree otherwise.

If the leave is taken to care for seriously ill spouse, child or parent, or due to employee's own serious health condition, leave may be taken intermittently or on a reduced schedule when medically necessary. The Town's agreement is not required if the employee wants to take leave intermittently or on a reduced leave schedule for those reasons. Otherwise such leave is not permitted except at the sole discretion of the Town.

Where an employee requests intermittent leave due to a qualified family member's or the employee's own serious health condition, and the leave is foreseeable based on planned medical treatment, the Town may require the employee to transfer to a temporary alternate job for which the employee is qualified and which better accommodates the leave than the employee's regular job. The temporary position will have equivalent pay and benefits of the employee's regular job.

#### 6. Job and Benefits Security

With limited exceptions, any eligible employee who takes FMLA leave is entitled to be restored to his or her old job or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment, unless the employee would no longer have been employed in such a position had the employee not taken such a leave.

For the duration of the FMLA leave, the Town will maintain coverage under any group health plan for any employee at the same level and under the same conditions coverage

would have been provided if no leave had been taken. During an unpaid FMLA leave, the Town may require employees to pay their share of premium payments at the same time as normal payroll deductions. The Town shall notify eligible employees concerning the amount of each premium payment. Failure to pay such premiums during leave may result in the loss of health coverage. The Town may stop coverage if the employee's payment is more than thirty (30) days late, provided the town given fifteen (15) days' notice with an opportunity make up the missed payments.

#### 7. Employee Obligations and Limitations Under FMLA

In the administration of family or medical leave, each employee has certain obligations and limitations including, but not limited to, the following:

Where a husband and wife are employed by the Town, the aggregate amount of leave that the Town will give the spouses during any 12-month period is limited to 12 work weeks if the leave is for a birth or the placement of a child or to care for a sick child or parent.

In case of the birth or placement of a child for adoption or foster care, the entitlement to leave expires after one year from the date of the birth or placement.

#### 8. Compensation for FMLA Leave

FMLA does not require paid family or medical leave. The employee may choose that any of the employee's available accrued paid vacation, personal, sick leave be substituted for any part of the 12-weeks of unpaid FMLA leave, but only under circumstances permitted by the Town's leave policies. Once any paid leave is used up, the remainder of the 12 weeks of leave will be unpaid.

Within a reasonable time after the employee requests a FMLA leave, or when the Town learns that leave has been or will be taken for an FMLA-qualified purpose, the Town may designate that the employee's available accrued paid vacation, personal, and sick leave be substituted for any part of the 12-weeks of unpaid FMLA leave. Once any paid leave is used up, the remainder of the 12 weeks of leave will be unpaid.

During the leave period, the employee is not entitled to unemployment compensation.

#### 9. Employee Notice Requirements

Where the necessity for leave is foreseeable due to the expected birth or placement of a child, the employee must provide at least 30 days written notice of the employee's

intention to take leave. If the date of birth or placement requires leave to begin in less than 30 days, the employee must provide such written notice as soon as practicable.

If an employee is unable to give such notice because the need for leave is not foreseeable, then the employee must give as much notice as practicable. Typically, this means giving notice to the Town within one or two working days of learning that FMLA leave must be taken. Any employee who fails to give requisite notice may be delayed in receiving authorization for leave.

#### 10. Health-Care Provider Certification

The Town may require that any leave request based on a qualified family member's or the employee's own serious health condition be supported by certification of a health care provider in a timely manner. The employee shall have at least 15 calendar days from the time leave is requested to provide such certification. The Town may request, and the employee has an obligation to provide, later re-certifications on a reasonable basis but not more often than every 30 days.

Each employee shall report monthly on his or her status and the intention of the employee to return to work. The Town requires each employee taking leave due to the employee's serious health condition to obtain certification that the employee is not able to resume work.

An eligible employee on FMLA leave must submit to the Town a medical release indicating that the employee is able to return to work. Failure to submit such a release will preclude the employee from being restored to his or her employment with Town.

If an employee fails to return to work after the period of leave expires, the employee must reimburse the Town of the premium the Town paid for insurance coverage during the leave period. The Town is not entitled to reimbursement of insurance premiums paid on behalf of the employee during FMLA leave where the employee does not return to work (1) due to the continuation, recurrence, or onset of a serious health condition of a qualified family member of the employee that would otherwise entitle the employee to take leave; (2) due to non-reinstatement of a key employee; or (3) due to other circumstances beyond the control of the employee, including the employee's own serious health condition.

#### 11. Nondiscrimination/Nonretaliation Policy Statement

The Town will not: (1) interfere with, restrain, or deny the exercise of any right provided under the FMLA; (2) discharge or discriminate against any person for opposing any practice made unlawful by the FMLA; or (3) discharge or discriminate against any person

for his or her involvement in any proceedings under or relating to the FMLA.

**E. Sick Leave and Personal Leave Days**

1. Full-time employees, salary employees, and part-time employees with full time benefits will receive paid sick leave for illness or injury or may take paid personal leave days as set forth herein.
  - a. Sick Leave: Each full-time employee, salary employee shall receive four (4) days of sick leave per year.
  - b. Sick leave is to be utilized solely for the purpose of;
    1. Illness or injury of the employee.
    2. Avoiding jeopardizing the health of other municipal workers.
  - c. In order to qualify for sick leave pay, the employee must comply with the following conditions;
    1. Employees shall notify their supervisor of their absence prior to the start of the work shift.
    2. Employees shall keep their supervisor informed of the extent of their illness and anticipated day of return.
    3. Doctor's certification of any illness of three (3) consecutive days shall be required.
2. The employee shall notify his supervisor of his absence due to illness before the scheduled work start time, except in medical emergency. Any employee who does not notify his supervisor because of an emergency will have an unexcused absence unless he presents an acceptable physician's statement to the supervisor within three (3) days of his return to work.
3. Employees who are on sick leave for three (3) consecutive working days shall present their attending physician's statement to the employee's supervisor on the day after the third working day of their absence and on the day after any physician visit relating to the same illness or injury.
4. All attending physicians' statements shall include the date when

the employee may resume his or her normal work duties. Any incomplete statement may be rejected by the Town as insufficient and an unexcused absence(s) will be charged against the employee.

Sick leave shall be determined in light of the physician's statement and other medical evidence available or requested by the Town.

5. No sick leave or sick leave pay allowance shall be granted for absences caused by the use of non-prescribed habit-forming drugs or intoxicants, willful intent to injure oneself, or the commission of a felony.
6. Any employee unable to complete his or her workday because of a work-related injury will be paid for the balance of the employee's regular work day. Any additional rights and benefits for such an employee shall be governed by the Indiana workmen's compensation statute and this handbook.
7. The employee may be required to undergo a physical examination by a physician selected by the Town at the Town's expense in relation to a requested sick leave. The Town may place the employee on an unpaid sick leave of absence not to exceed six (6) months in the event the medical evidence indicates the employee is unable to perform his or her duties. Any employee who does not return to work for the performance of his or her duties within said six (6) month period may be released from his or her employment with the Town.
8. Full time employees and salary employees, off work due to injury or illness, not subject to Workman's Compensation Benefits, may apply to the Town Board for payment of salary benefits during such time as they are off work for a period not to exceed 90 days. These benefits may be granted on a case by case basis by the Town Board based on an application presented to the Town Board by said employee containing the Employee's name, length of employment, statement of the cause of injury or illness, length of time expected to be off work and a doctor's statement, including diagnosis, length of disability and prognosis. Any employee applying for these benefits shall have first used upon all of his available vacation and/or sick leave days heretofore allowed under this ordinance.

#### **G. Jury Duty Leave**

Each employee shall be granted leave for jury duty. The jury duty leave shall be paid in

an amount equal to the difference between the employee's base rate and the jury duty fee paid by the Court. The employee shall provide notice to his or her supervisor of the need for leave for jury duty upon receipt of the jury call from the calling court. An employee will only be compensated by the Town for a period of one week. If the trial extends longer than one week, the employee will have to request consideration from the Town Board for any further pay.

#### H. **Personal Leave**

Full time employees, and salary employees, with full time benefits shall receive two (2) personal days a year, with pay, at their regular rate of compensation, provided the employee receives prior approval from their supervisor. Personal leave days are non-cumulative.

#### I. **Bereavement Leave**

All employees shall receive up to three (3) consecutive working days of paid leave from work at the regular rate of pay upon the death of a spouse, brother, sister, child, stepchild, mother, father, grandparent, mother-in-law, or father-in-law.

All employees shall receive one (1) day of paid leave from work at the regular rate of pay upon the death of an aunt or uncle.

### **IV. MISCELLANEOUS POLICIES**

#### A. **Department Policies**

It is the policy of the Town to permit its departments to establish additional policies and work rules as needed within the respective departments. Departmental policies and work rules may be established by the department head as the need indicates. Such rules must be filed with the Town Board to determine instances of conflicting rules. In case of conflict, general Town policy takes precedence subject to contrary provisions of law.

#### B. **Educational and Training Expense Policy**

The Town will reimburse employees for job-related educational and training expenses if the employee obtains the prior approval of the Town Board, executes and Educational and Training Costs Reimbursement Agreement, and receives a passing grade or obtains



the competency level sought. The employee may also be reimbursed mileage and other personal expenses associated with job-related education or training in accordance with the Town's regular reimbursement policies.

#### C. Travel, Meal, and Lodging Expense Policy

An employee of the Town shall receive reimbursement for mileage, meals, lodging, parking, and similar expenses for out of the Town travel while employed by the Town and while engaged in conducting business for the Town by consent. An employee of the Town who shall drive or operate a personal automobile for the Town under these conditions, when a Town owned vehicle is not available, shall receive mileage set by Town Board for each mile the employee drives. The employee shall, at all times, travel the shortest route between destinations. The maximum reimbursement for travel expenditures, in addition to mileage as aforesaid, shall be as follows:

Meal expenses - Reasonable expense reimbursed with Receipts

Lodge expenses - \$150.00 per night maximum per room

Notwithstanding the above per diem maximums, and except upon pre-approval by the Town Board, each employee shall utilize meals and lodging which are included in or a part of any registration process for out-of-town events. A receipt for any expense is required before reimbursement will be considered, except for mileage, and any expense which exceeds the maximum must be pre-approved by the Town Council in order to be reimbursed in full.

#### D. Gifts or Gratuities

The Town prohibits its employees from accepting gifts and gratuities from firms, organizations, their employees, agents, or other individuals who may or do conduct business with the Town in furnishing material, goods, and services.

The following criminal statutory provisions regarding ethical standards for government officers and employees exist and shall be strictly adhered to the Town employees:

Bribery - I.C. 35-44-1-1(1)-(4)

Official Misconduct - I.C. 35-44-1-2

Conflict of Interest - I.C. 35-44-1-3

Profiteering from Public Service - I.C. 35-44-1-7

It is important that Town employees maintain high ethical standards to promote the principal that public office is a public trust where government is based upon the consent of its citizens who are entitled to have complete confidence in the integrity of their government. The business of the Town shall be conducted in such a manner so that the general public will have confidence that the conduct of the Town's business is always conducive to the public good. As such, specific reference and attention shall be given to the Indiana Code of Ethics for the Conduct of State Business contained in 40 IAC-2 as a guide to Town employees. The reference is intended as a guide only and is not meant to unduly restrict or limit the behavior of Town employees during the time when they are not on duty. Each Town employee retains lawful right and privileges as a private citizen to interests of a personal or private financial nature, and these rights and privileges will be honored to the extent that they are compatible with an individual's public office or employment.

#### E. Drug-Free Workplace

The Town is committed to providing a drug-free workplace, and the Town expects the cooperation of all employees and a similar commitment from them. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the workplace is prohibited. Any employee who violates this rule may be subject to discipline, up to and including termination. As a condition of employment, all employees must abide by this rule. In addition, any employee who is convicted of a drug violation arising out of conduct occurring in the workplace must notify their supervisor of such conviction within five (5) days after conviction.

#### F. Drug Abuse in the Workplace

1. The Town has an obligation to its employees and the general public to take reasonable and appropriate steps to prevent drug and alcohol abuse by its employees in or affecting the workplace. This policy is based in part on the Town's concern regarding the safety, health, and welfare of its employees, their families, and the community at large as well as its legal obligations to conduct certain alcohol and drug testing pursuant to federal regulations.

Consistent with this commitment, the Town strictly prohibits:

- a. The presence of employees on the job while under the

- influence of alcohol, illegal drugs, controlled substances or other intoxicants;
- b. The use, possession, transfer, or trafficking of alcohol, illegal drugs, controlled substances, or other intoxicants in any amount, in any manner, or at any time, either on Town premises or while conducting Town business other than for law enforcement purposes by duly recognized law enforcement officers;
- c. The use of Town property, including Town vehicles and telephones, or any employee's position with the Town to make, transfer, or traffic alcohol, illegal drugs, controlled substances, and other intoxicants; and
- d. Any other use, possession, transfer, or trafficking of alcohol, illegal drugs, controlled substances, or other intoxicants in a manner which has an adverse impact on the Town.

2. Pursuant to applicable law, the Town is establishing alcohol and drug testing policies and procedures to comply with Department of Transportation (DOT) requirements effective January 1, 1996. All employees (and applicants for employment) that perform duties covered by DOT regulations are covered by these policies and procedures related at alcohol and drug use. Town employees required by applicable law to have a Commercial Driver's License (CDL) are covered by these regulations and this Policy.

Individuals are covered by these policies and procedures at any time when there is any possibility that they may be required to perform any duties for the Town which are covered by DOT regulations. In general, the DOT rules prohibit covered employees from performing safety-sensitive functions:

- a. When breath test results indicate an alcohol concentration of 0.04 (AC) or greater;
- b. Within four hours after using alcohol;
- c. While using alcohol on the job;
- d. While possessing alcohol, unless the alcohol is manifested and transported as part of a shipment;
- e. During the 8 hours following an accident if their involvement has not been discounted as a contributing factor in the accident or until they are tested;
- f. When the employee uses any illegal drugs, except when the

use is pursuant to the instructions of a physician who has advised the employee that the drug does not adversely affect the employee's ability to perform safety-sensitive functions;

- g. If the employee tests positive for illegal drugs; or
- h. If the employee refuses to submit to required alcohol and drug tests.

3. In recognition of the DOT regulations, the following circumstances will warrant a test/analysis for alcohol and illegal drugs be performed.

- a. Pre-employment - An EBT and a urine drug screening test will be conducted before applicants are hired or after an offer to hire, but before actually performing safety-sensitive functions for the first time. The appropriate test is also required when employees transfer to a covered position.

#### CONSEQUENCES:

- i. A positive result in a urine test for an illegal drug or an EBT of 0.04 (AC) or greater will result in an applicant not being hired or a transfer not occurring.
  - ii An EBT of 0.02 or greater but less than 0.04 (AC) will be subject to subparagraph 10 below.
- b. Post-Accident - An EBT and urine drug screening test will be conducted after accidents on covered drivers whose performance could have contributed to the accident (as determined by a citation for a moving traffic violation) and for all fatal accidents even if the driver is not cited for a moving traffic violation.

#### CONSEQUENCES:

- i. Upon a negative result for illegal drugs and an EBT of less than 0.02 (AC), the employee shall return to work and shall be credited for any time lost as a result of having the drug/alcohol test conducted.
- ii Any tested employee who is in a work related incident and

tests positive for illegal drugs or has an EBT of 0.04 (AC) or greater shall be subject to subparagraph 9 below concerning referral, evaluation, and treatment.

- iii. Any tested employee who is in a work related incident who has an EBT of 0.02 or greater but less than 0.04 (AC) shall be subject to subparagraph 10 below.
- c. Reasonable Suspicion - An EBT and urine drug-screening test will be conducted when a trained supervisor or company official observes behavior or appearance that is characteristic of alcohol/drug misuse.

#### CONSEQUENCES:

- i. Upon a negative result for illegal drugs and an EBT of less than 0.02 (AC), the employee shall return to work and shall be credited for any time lost as a result of having the drug/alcohol test conducted.
- ii Any employee who is tested for reasonable suspicion and tests positive for illegal drugs or has an EBT of 0.04(AC) or greater shall be subject to subparagraph 9 below concerning referral, evaluation, and treatment.
- iii. Any employee who is tested for reasonable suspicion and has an EBT of 0.02 or greater but less than 0.04 (AC) shall be subject to subparagraph 10 below.
- d. Random - EBT and urine drug-screening tests will be conducted on a random basis just before, during, or just after performance of safety-sensitive positions.

#### CONSEQUENCES:

- i. Upon a negative result for illegal drugs of an EBT of less than 0.02 (AC), the employee shall return to work and shall be credited for any time lost as a result of having the drug/alcohol test conducted.
- ii Any employee who is randomly tested and tests positive for illegal drugs or has an EBT of 0.04 (AC) or greater shall be subject to subparagraph 9 below concerning referral,

evaluation, and treatment.

- iii. Any employee who is randomly tested and has an EBT of 0.02 or greater but less than 0.04 (AC) shall be subject to subparagraph 10 below.
- e. Return to Duty and Follow-up - EBT and/or urine drug-screening tests will be conducted when an individual who has violated the prohibited alcohol/illegal drug conduct standards returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months after an employee returns to duty.

Follow-up testing may be extended for up to 60 months following return to duty.
- f. Each year, the number of random alcohol test conducted by the Town must equal at least 25% of all safety-sensitive positions.
- g. Each year, the number of random drug tests conducted by the Town must equal at least 50% of all safety-sensitive positions.
- h. All DOT alcohol and drug testing performed on individuals will be in accordance with required DOT procedures. These include the use of special testing forms, trained personnel, and special processes and handling to insure the integrity and accuracy of the testing process. Information related to testing will be treated as CONFIDENTIAL except as required to comply with DOT requirements, safeguard the safety of personnel and the public, or as otherwise legally required.
- i. DOT testing includes taking urine samples which are sent to federally certified testing laboratories to test for the presence of illegal drugs. Positive test results will be reviewed by a qualified physician - a Medical Review Officer (MRO) - to determine if the individual has a legitimate medical explanation for a positive test result.
- j. The Omnibus Transportation Employee Testing Act of 1991 requires the "split sample method" for collecting and analyzing urine samples for purposes of the Federal Highway Administration drug testing program. When the MRO tells the employee that he or she has a confirmed positive test, the MRO must also tell the

employee that he or she will have 72 hours following notice of a verified positive test in which to request a test of the split specimen for confirmation of the test result.

- k. DOT alcohol testing includes the taking of breath samples to test for alcohol concentration. Breath testing equipment used shall be approved by the National Highway Traffic Safety Administration's (NHTSA) Conforming Products List (CPL).

EBT will be performed in accordance with procedures required by the DOT, including but not limited to testing locations, testing form and log book, preparation for testing, initial breath test procedures, and confirmation breath test procedures.

- l. The Town shall maintain records in a secure manner so that disclosure of information to unauthorized persons does not occur.

An employee subject to testing is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of illegal drugs and alcohol, including any records pertaining to his or her alcohol and drug tests. The Town shall promptly provide the records requested by the employee.

- m. No individual may perform DOT-covered safety-sensitive functions if the individual has engaged in conduct prohibited by DOT alcohol/drug rules. Actions and consequences taken by the Town described in this policy are required by DOT. However, the Town reminds individuals that this policy is IN ADDITION TO any and all other Town policies and procedures related to alcohol and drug use. Individuals are subject to such other Town policies in addition to those described in this policy. For example, positive drug and alcohol test results or other violations of this policy will result in the consequences required by DOT described in this policy, but also may result in disciplinary action, up to and including discharge.
- n. No covered employee who engages in conduct prohibited by the DOT alcohol and drug abuse rules shall return to duty requiring the

performance of a safety-sensitive function unless and until the employee:

1. Is evaluated by a substance abuse professional
2. Satisfactorily completes any treatment or rehabilitation program prescribed by the substance abuse professional; and
3. Satisfactorily completes return-to-duty testing;

In accordance with DOT requirements and regulations. The cost of evaluation, treatment, and/or rehabilitation will be at the employee's expense to the extent not covered by available medical insurance. The Town shall advise the employee of available programs and resources for evaluation and resolving problems associated with the misuse of alcohol and use of illegal drugs, including the names addresses, and telephone numbers of substance abuse professionals with counseling and treatment programs.

- o. A covered employee or applicant tested under the DOT regulations who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 (AC) shall not perform or continue to perform safety-sensitive functions, including driving a commercial motor vehicle, until the next regularly scheduled duty period, but not less than 24 hours following administration of the test.

Such individual should arrange alternate transportation home from a testing site when alcohol is detected in a concentration of 0.02 or greater but less than 0.04 (AC).

- p. The following definitions shall apply within this Drug Abuse in the Workplace policy:
    1. Alcohol: The intoxication agent in beverage alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohols that could be used as intoxicants.
    2. Alcohol Concentration (AC): The alcohol in a volume of breath expressed in terms of grams of alcohol per 2.10 liters of breath as indicated by an evidential breath test (EBT).
    3. CDL: A commercial driver's license under DOT regulations.



4. EBT (or Evidential Breath Testing Device): An EBT approved by the National Highway Traffic Safety Administration for the evidential testing of breath and place on NHTSA's Conforming Products List of Evidential Breath measurement devices' (CPL).
5. Illegal Drugs: Amphetamines, cannabinoids (marijuana), cocaine, opiates (codeine and morphine), and phencyclidine (PCP).
6. Safety-sensitive Functions: All time from the time a CDL driver begins to work or is required to be in readiness to work until the time he/she is

q. In addition to the required DOT alcohol and drug testing and based upon the Town's independent employment authority, it shall be the policy of the Town that all other employees shall be required to submit to alcohol and drug testing in the following circumstances:

1. Pre-employment;
2. Post-accident; and
3. Reasonable Suspicion.

All pre-employment, post-accident, and reasonable suspicion alcohol and drug testing of non-CDL employees shall be pursuant to and in accordance with the Town's DOT alcohol and drug testing policy and procedures above.

#### H. Safety Policy

Safety is everybody's business. Every employee is responsible for his or her own safety as well as for others in the workplace. Safety must be a primary concern in every aspect of planning and performing all Town activities. We want to protect our employees against preventable injury or illness in the workplace to the greatest extent possible. All injuries (no matter how slight) must be reported to the employee's supervisor.

#### I. Employee Conduct and Discipline

Engaging in the following conduct and activities, which are not mutually exclusive or

collectively exhaustive, shall be cause for disciplinary action up to and including immediate discharge:

1. Insubordination.
2. Fighting, indecent conduct, or use of abusive/profane language in public while at work
3. Violation of the Town's Drug Free Workplace or Drug Abuse in the Workplace policies.
4. Refusal to perform legitimate work assigned.
5. Abuse, misuse, destruction or theft of Town property, tools, or equipment.
6. Conviction of any crime resulting in confinement.
7. Habitual absenteeism, unexcused absences, or tardiness.
8. Gambling, soliciting, selling of tickets, articles, merchandise, and the like or collection of contributions for any purpose during working hours except as may be authorized in writing by the Town.
9. Operation of machines, tools, or equipment to which an employee has not been specifically assigned by an accredited supervisor or his assistant.
10. Interference with Town operations.
11. Leaving the department or job during working hours without the permission of the immediate supervisor, except when engaged in regular work or in cases of emergency.
12. Misuse or removal from the work premises, without proper authorization, of any Town property or records.
13. Creating unsanitary conditions or hazards.
14. Engaging in horseplay or practical jokes which may lead to the harm of persons or property.
15. Failure to give normal conscientious effort to performance of legitimate work assignment.
16. Consistent low productivity.
17. Smoking in unauthorized areas.
18. Possession of firearms, explosives, poisonous substances, or weapons of any kind while on duty, except in performance of official duties.
19. Molesting or otherwise annoying other workers.
20. Intentional or knowing falsifications or tampering with, removing, or misusing any Town of public record, document, report, application, copy thereof.
21. Violation of any Town rules or policies established in the Manual or in a separate Departmental Policy.

or

#### **J. Disciplinary Procedures**

1. Town employees are subject to disciplinary action for violation of

these rules and regulations, policies established by the Town Board, or for other good cause as reasonably determined by the Town Board. It is recognized that in many instances, minor matters should and will be discussed and resolved without need for formal disciplinary action. Such undocumented situations are not considered “discipline” for purposes of these rules and regulations.

1. Disciplinary action will be appropriate to the circumstances as reasonably determined by the Town and may include, but need not be limited to, the following:
  - a. Department Head Reprimand - An oral warning may be given by the department head, and when given may, at the discretion of the department head be documented for placement in the employee’s personnel file with a copy given to the employee. Such reprimand may be considered by the Town Board with regard to further disciplinary action, future compensation and/or job responsibilities, and for all other appropriate purposes.
  - b. Department Head/Supervisor’s Reprimand - A written reprimand may be given by the Department Head/Supervisor tendered to the employee for signature, and placed in the employee’s personnel file with a copy to the employee. If the employee refuses to sign, the document will so indicate.
  - c. Town Board’s Reprimand - A written reprimand may be given by the Town Board tendered to the employee for signature, and placed in the employee’s personnel file with a copy to the employee. If the employee refuses to sign, the document will so indicate.
  - d. Suspension - The department head/supervisor may suspend an employee for the balance of the work day in which the incident justifying the suspension occurred, as well as for a period of time not to exceed the immediately following three (3) work days unless a longer time is determined appropriate by the Town Board. Any such suspension shall be without pay and may be a part of the department head’s and/or supervisor’s disciplinary action which includes a documented department head’s and/or supervisor’s reprimand as above defined.

Any employee may be suspended for up to ten (10) days without pay for cause, as reasonably determined by the Town Board.

- e. Discharge - An employee may be discharged by the Town Board for any reason, or for no reason, to the full extent provided by applicable law.
- 3. Decisions as to disciplinary action beyond those which are within the authority of the department heads as hereinabove set out, including discipline of the department heads, shall be made by the Town Board.
- 4. Disciplinary measures other than discharge that become part of the employee's personnel file will not be maintained as a part of that record beyond sixty (60) months from the date of disciplinary action, providing there is no additional disciplinary action given to the employee during that sixty (60) months.

#### V. BONDING FOR EMPLOYEES AND OFFICERS

All officers and employees of the Town of LaGrange authorized to receive and/or disburse funds shall be covered by fidelity bonds. The bonds must be recorded at the LaGrange County Recorder's Office.

#### VI. PROBATIONARY PERIOD

All hourly employees hired shall be on a 90 day probationary period. At this time, they shall be reviewed for permanent employment. If the review is not a satisfactory one, the Town Board may request that the employee remain on probationary time for a length of time as designated in their review. This section excludes "seasonal" employees.

#### VII. HIRING AND DISMISSAL

- 1. The Town Board expressly reserves the right to hire all town employees.
- 2. No employee shall be dismissed without the express approval of the Town Board.

This Ordinance shall take effect upon promulgation according to law, and is enacted the  
20<sup>th</sup> day of August , 2007.

LAGRANGE TOWN BOARD

Terry Helmer PRESIDENT

Eugene Patton

Bruce Eagleson

Mark W Eagleson

Richard Greene

ATTEST:

Mitch D. Paul

Clerk-Treasurer