**ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE**

**AND DETRIMENTAL PERSONAL CONDUCT**

**Section 1. Disciplinary Action for Unsatisfactory Job Performance**

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. All cases of disciplinary suspension, demotion, or dismissal must be approved by the Town Manager prior to giving final notice to the employee.

**Section 2. Unsatisfactory Job Performance Defined**

Unsatisfactory job performance includes any aspect of the employee's job which is not performed as required to meet the standards set by the Department Head. *Examples of unsatisfactory job performance include, but are not limited to, the following:*

1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;

2) Careless, negligent or improper use of Town property or equipment;

3) Physical or mental incapacity to perform duties after reasonable accommodation;

4) Discourteous treatment of the public or other employees;

5) Absence without approved leave;

6) Repeated improper use of leave privileges;

7) Habitual pattern of failure to report for duty at the assigned time and place;

8) Failure to complete work within time frames established in work plan or work standards; or

9) Failure to meet work standards over a period of time.

**Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance**

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor should meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions should be noted in the employee's file by the supervisor. An employee whose job performance is unsatisfactory over a period of time should normally receive at least two counseling sessions followed with written warnings from the supervisor before disciplinary action is taken. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the supervisor should use the following steps:

1) A final counseling session followed by a written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.

2) If performance does not improve, a written recommendation should be sent to the department head or Town Manager for disciplinary action such as suspension, demotion, or dismissal.

Disciplinary suspensions for nonexempt employees should not generally exceed three days (24 hours). Disciplinary suspensions for exempt employees should be for one week in order to retain the exempt status under FLSA.

**Section 4. Disciplinary Action for Detrimental Personal Conduct**

With the approval of the Town Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to Town service in order to 1) avoid undue disruption of work, 2) to protect the safety of persons or property, or 3) for other serious reasons.

**Section 5. Detrimental Personal Conduct Defined**

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the Town may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of any government may be or have been violated. *Examples of detrimental personal conduct include, but are not limited to, the following:*

1) Fraud or theft;

2) Conviction of a felony or the entry of a plea of nolo contendere thereto;

3) Falsification of records for personal profit, to grant special privileges, or to obtain employment;

4) Willful misuse or gross negligence in the handling of Town funds;

5) Willful or wanton damage or destruction to property;

6) Willful or wanton acts that endanger the lives and property of others;

7) Possession of unauthorized firearms or other lethal weapons on the job;

8) Brutality in the performance of duties;

9) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;

10) Engaging in incompatible employment or serving a conflicting interest;

11) Request or acceptance of gifts in exchange for favors or influence;

12) Engaging in political activity prohibited by this policy;

13) Harassment of an employee or the public with threatening or obscene language and/or gestures;

14) Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status;

15) Stated refusal to perform assigned duties or flagrant violation of work rules and regulations; or

16) Disclosure of confidential information.

**Section 6. Pre-dismissal Conference**

Before dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Town Manager or a Department head will conduct a pre-dismissal conference. At this conference, the employee may present any response to the proposed dismissal to the Town Manager or Department Head. The Town Manager or Department Head will consider the employee's response, if any, to the proposed dismissal, and will, within three working days following the pre-dismissal conference, notify the employee in writing of the final decision. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights under the Town 's grievance procedure*.*

**Section 7. Non-Disciplinary Suspension**

During the investigation, hearing, or trial of an employee on any criminal charge, or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee, when suspension would, in the opinion of the Department Head, be in the best interest of the Town, the Department Head may suspend the employee for part or all of the proceedings as a non-disciplinary action. In such cases, the Department Head may:

1) Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or

2) Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

If the employee is reinstated following the suspension, such employee shall not lose any compensation or benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued vacation and sick leave shall be maintained during the period of suspension.

**Section 8. Substance Abuse Policy**

The Town has established policies and procedures related to employee substance abuse in order to insure the safety and well-being of citizens and employees, and to comply with any state, federal, or other laws and regulations.