

**CITY OF BERLIN  
PERSONNEL POLICY**

*The following Personnel Policy Book was originally adopted by City Council Resolution in 1995. On January 28, 2019 the Resolution adopting the Personnel Policy was rescinded by City Council Resolution and the Personnel Policy was re-adopted by motion and vote of the City Council. This process was adopted to make updating the Personnel Policy a more efficient process to promote a current set of policies. Policies that appear without a City Council adoption date originate from the 1995 Personnel Policies. As policies are updated or added, they will include the adoption date at the relevant heading.*

**Revised 1/28/2019**

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# **CITY OF BERLIN PERSONNEL POLICY**

## **1. INTRODUCTION AND TITLE.**

The personnel regulations shall be known and may be cited as the "City of Berlin Personnel Policy", hereinafter referred to as the "Personnel Policy."

## **2. PURPOSE AND APPLICABILITY.**

The Personnel Policy is designed to establish a clear-cut, orderly and systematic method for the handling of personnel matters, and is sufficiently flexible to meet changing situations and conditions from time to time to provide continuity to City personnel in addition to but not preemptive to collective bargaining agreements. The purpose of the personnel policy is to provide personnel with an understanding of those rules, regulations and laws that affect their benefits, terms and conditions of their employment. This policy does not confer upon any employee a property interest in their position or alter their employment status which shall remain subject to state and federal law and the appropriate collective bargaining agreement.

These personnel rules and regulations, including future amendments, shall apply to all persons in the employ of the City of Berlin except those employees whose collective bargaining agreements stipulate different rules and regulations, and for those members of the School Department, Berlin Water Works, Berlin Police Department, elected and appointed boards, commissions and committees, and the City Manager. The City's Personnel Policy shall automatically conform to any State or Federal legislation as is applicable. For those departments listed in this Section, they shall provide an approved copy of their personnel policy to the City Council for informational purposes.

## **3. AMENDMENTS.**

The Council may upon recommendation of the City Manager, amend, waive or suspend these rules and regulations; and shall from time to time as the need arises review, revise, and update the Policy. Any variation of the application of this Policy does not automatically constitute an amendment to the Policy.

## **4. AUTHORITY OF THE CITY MANAGER.**

The City Manager shall have the basic responsibility for the administration of the Personnel Policy and may authorize a designee to carry out the purpose of the Personnel Policy. The authority of the City Manager is provided for by the City Charter and the

Codified Ordinances of the City of Berlin:

**SECTION 14-F** "The manager shall have the power to appoint and remove, subject to the provisions of this charter, all officers and employees in the administrative service of the City."

**2-236** "The City Manager shall be the administrative head of the City, and shall perform all the duties and have all the responsibilities prescribed by the City Charter, by ordinance or resolution."

**2-238** "The City Manager shall supervise the heads of all departments established by this Administrative Code, and shall have the power to appoint, suspend and discipline, and to perform or delegate the duties and responsibilities of such Department Heads."

**2-239** "The City Manager may prescribe such rules and regulations not inconsistent with the City Charter and City Ordinances as he may deem necessary for the conduct of the various departments, and he may investigate and inquire into the affairs of any department at any time."

**2-242** "The City Manager is authorized to prepare such administrative regulations, in addition to those embodied in the City Charter and this code, as are necessary to provide for the adequate functioning of all departments."

**2-244** "The City Manager shall be the Purchasing Agent for the City and shall be responsible for conducting all purchasing procedures in accordance with Chapter 5, Article 400, of the City Ordinances."

**5. DEFINITIONS.**

**Definition 1.** **APPOINTMENT** shall mean the placement of a person in a position in the service of the City. Appointments may be accomplished through personnel actions of transfer, promotion, demotion, or re-employment, as well as original appointment.

**Definition 2.** **CITY** shall mean the City of Berlin.

**Definition 3.** **CLASSIFICATION** shall mean the group of similar positions for the purpose of establishing a pay level.

**Definition 4.** **DEMOTION** shall mean the movement of an employee from a position in one pay level to a position in a pay level having a salary range with a lower maximum rate of pay.

**Definition 5.**        **DEPARTMENT** shall mean an operating unit of City Government funded through one or more budget categories and under the supervision of a single individual appointed by the City Manager.

**Definition 6.**        **DISCRIMINATION** shall mean a show of partiality or favoritism in the treatment of, prejudice against, or animus towards any group of persons who are a protected class under civil rights legislation of the United States or the State of New Hampshire, including any group of persons distinct because of race, religious affiliation or belief, ethnicity, gender or similar characteristic, or such partiality, favoritism, prejudice or animus with respect to any person because of membership or perceived membership in any such group. Discrimination shall include unlawful partiality, favoritism, prejudice or animus with respect to any age classification. Discrimination shall include any unlawful conduct defined as discrimination by any federal or state civil rights legislation or any administrative rule adopted pursuant thereto.

**Definition 7.**        **HARASSMENT** shall mean disturbance, intrusions, tormenting, pestering, persecution, hostility or discrimination by one or more persons or group of persons whether any such action is physical, verbal (including oral, written or graphic communications, such as those reflecting animus towards or humor at the expense of any group of persons) or by any other means. Harassment shall include sexual harassment, including but not limited to sexually-oriented rude or offensive remarks or use of position to seek sexual favor or to seek social engagements presenting opportunity for sexual favor. Harassment shall include retaliation for reporting of any incident or practice, reasonably believed by the person reporting it to be discrimination or harassment in violation of these rules. Harassment shall include any unlawful conduct defined as harassment by any federal or state civil rights legislation or any administrative rule adopted pursuant thereto.

**Definition 8.**        **EMPLOYEE** shall mean a person who has been appointed to a position in the City service in accordance with the personnel rules and regulations and shall include full-time, part-time and/or temporary or seasonal employees. Excepting the positions of Comptroller/Tax Collector and Executive Secretary to the City Manager and any other positions not declared covered by a collective bargaining agreement, employee's shall generally follow the terms and conditions of their collective bargaining agreement and the personnel policies.

(a)    **FULL TIME EMPLOYEE** shall mean any employee who regularly works a

minimum of 35 hours per week.

- (b) **PART-TIME EMPLOYEE** shall mean any employee who regularly works less than 35 hours per week.
- (c) **REGULAR EMPLOYEE** shall mean any employee who has completed a probationary period.
- (d) **TEMPORARY EMPLOYEE** shall mean a person employed by the City on a temporary basis and for a limited period of time.

**Definition 9.** **FISCAL YEAR** shall mean as quoted from the Codified Ordinances of the City of Berlin, "The fiscal budget and accounting year of the municipality shall begin on July 1<sup>st</sup> of each year and end on June 30<sup>th</sup> of the following year."

**Definition 10.** **IMMEDIATE FAMILY** shall mean employee's spouse, children, step-children, parents, step-parents, brothers and sisters, mother-in-law, father-in-law, and other relatives who are actual members of the employee's household on an ongoing basis.

**Definition 11.** **INSUBORDINATE** shall mean any employee unwilling to comply with directions or authority or being disobedient.

**Definition 12.** **LAYOFF** shall mean the removal of an employee because of lack of work, failure of financial appropriation, or other causes which do not reflect on the employee. Layoffs shall not be considered as dismissal, or as disciplinary in nature. Layoffs shall be converted to termination if the employee is not called back within twelve months.

**Definition 13.** **LUNCH HOUR** shall mean one (1) hour lunch break to be taken as scheduled by the Department Head.

**Definition 14.** **PERSONNEL OFFICER**, the City Manager shall be the Personnel Officer of the City of Berlin, except as he/she may delegate such duties to another specific individual.

**Definition 15.** **PROBATIONARY PERIOD** shall mean a specified period of time which a person entering upon the service of the City must complete before attaining regular employee status.

**Definition 16.** **PROMOTION** shall mean the movement of an employee from one

position into another position having a salary with a higher rate of pay.

**Definition 17.**     **TRANSFER** shall mean the movement of an employee from one position to another position in the City organization.

**Definition 18.**     **WORK DAY** shall mean the nominal working day is from 8:30 a.m. to 4:30 p.m. for employees working 35 hours per week. Employees working 40 hours per week shall work a nominal work day as scheduled by their Department Head. A Department Head may request authorization to change the work day to meet specific needs.

**Definition 19.**     **WORK WEEK** shall mean the normal work week for full-time City employees from Monday through Friday unless otherwise specified by the Department Head and approved by the City Manager.

**Definition 20.**     **SEVERANCE** shall mean any full time employee who voluntarily leaves the service of the City in good standing.

**Definition 21.**     **COLLECTIVE BARGAINING AGREEMENT** shall mean an agreement as a result of negotiations which has been approved by all the parties including the City Council which stipulates the terms and conditions of employment for those covered positions and employees.

## **6.           AMERICANS WITH DISABILITIES ACT**

The City of Berlin shall comply with the elements of the Federal Laws as they apply to the City working environment. Upon being informed, the City shall assess each situation and make the necessary accommodations and modifications or provide the necessary training for the essential skills or reorientation, whichever is appropriate.

## **7.           POLICY REGARDING HARASSMENT AND DISCRIMINATION**

The City of Berlin does not condone nor support the practice of harassment or discrimination in any form, by any person in the employ of the City or representing the City. Upon learning of a situation that violates this policy or the Federal Laws, the City will take immediate corrective and remedial actions that are deemed appropriate. In addition, the City will keep its employees informed about the applicability of compliance with these federal laws in the workplace.

Any employee who believes or suspects himself or herself or any other person to be or to have been the victim of violations of the policies stated herein with regard to

discrimination or harassment, shall report same to the appropriate personnel. The appropriate personnel shall be the immediate supervisor (or other person in supervisory chain of command above the immediate supervisor) of the person believed to be perpetrating the discrimination or harassment, except as otherwise provided herein. The reporting person who is the victim may choose to communicate his or her beliefs to the perceived perpetrator in lieu of reporting to supervisory personnel, but shall report to supervisory personnel if the conduct persists. If the perceived perpetrator is an elected official, the appropriate personnel is the City Manager. If the perceived perpetrator is a person appointed by the Council, the appropriate personnel shall be another appointed official, a member of the Council and the City Manager. In all cases of sexual harassment, the reporting person who is a victim may report to any official appointed by the Council or any person employed by the City in a supervisory capacity (but at a minimum to the City Manager), which official or employee is of the victim's gender, in the event the person who would otherwise be the appropriate personnel is not the victim's gender.

## **8. APPOINTMENT OF PERSONNEL.**

Except where there are specified provisions to the contrary in the City Charter or the Administrative Code, the City Manager shall appoint and remove all employees.

## **9. EMPLOYMENT PROVISIONS.**

(a) **Application for Employment.** Applicants with the City of Berlin shall file an application with the department in which they are interested or with the Office of the City Manager on forms provided for this purpose. The hiring of all personnel shall conform to the City's "Hiring Procedures and Practices", Addendum 1.

(b) **Appointment.** The Department Head involved shall review all applications and the results of any tests administered and prepare a list of the three highest rated applicants. After interviewing the applicants, such Department Head shall submit his/her recommendations to the City Manager. The City Manager will in all instances be the final appointing authority. Upon the Manager's approval, the Department Head shall offer the applicant the position conditioned upon the successful drug urinalysis test results and the completion of the medical-physical examination.

(c) **Eligibility.** Employees shall be selected in compliance with the Americans with Disabilities Act (ADA); and in compliance with Section 504 of the Rehabilitation Act of 1973 and as administered by the Equal Employment Opportunity Commission (EEOC). The final decision to hire shall be without regard to sex, race, age, color, national origin, creed, religion, disability or political affiliations and shall seek to employ the most qualified persons applying for said employment. When all other qualifications appear to be equal, preference may be given to citizens of the City of Berlin.

(d) **Examination.** All appointments in the competitive service shall be made according to merit and fitness to be ascertained by examination of the applicants. The type and scope of the examination shall be determined by the City Manager in cooperation with the Department Head based upon the characteristics of the job opening and shall be practical in nature. The examinations will be given by the City Manager or by a person, persons, or agency designated by the City Manager. Physical/medical examinations will be required only after a position offer has been made. Exception to this must be approved by the City Manager.

(e) **Probationary Period.** All original and promotion appointments will be probationary in nature during the first six months of the employee's connection with the City. The Department Head, with the approval of the City Manager, may extend the initial probationary period once for an additional term not to exceed six (6) months.

The Department Head shall in writing, five (5) days prior to the termination of the initial probationary period, give notice in writing to the employee of such action and the reasons for same. A copy of this notice shall be filed with the City Manager for insertion in the employee's records. This probationary period is established for the effective adjustment of the new employee and shall be utilized to study the employee's work and, if necessary, to reject an employee whose work does not meet required standards.

Probationary employees shall be paid at the rate of pay established for that position. During the employee's trial period, the Department Head shall evaluate the performance of the employee on a bi-monthly basis. Such evaluation shall be in writing with a copy provided to the employee and City Manager. The City Manager may extend the probationary period up to one full year if it is determined that the probationary employee is not performing work in an acceptable manner. During the probationary period, an employee is eligible for fringe benefits as specified herein and the appropriate collective bargaining agreement, other than the use of vacation and sick leave which will be accrued but not available to a probationary status employee. At any time during the probationary period, any probationary employee may be dismissed, without just cause, upon the recommendation of the Department Head. Any rejected employee who was promoted or transferred shall be reinstated in his former position unless he is dismissed. The City Manager has final say on dismissal of all probationary employees. At the end of the probationary period, the employee must either be given a regular appointment, rejected, or dismissed. The failure of the City to give notice of said decision, shall in no way constitute a waiver of its right to reject or dismiss an employee.

(f) **Procedure for Employment.** Employment with the City of Berlin shall be conducted whenever practical as determined by the City Manager and Department Heads, by job advertisement, application, written and oral examinations, and physical examinations.

(g) **Special Requirements for Employment.** Eighteen (18) years of age shall be the minimum age allowed for employment for regular positions with the City of Berlin in all departments. All applicants must either be able to demonstrate United States citizenship or possess the appropriate federal employment documents or work permits.

**AFFIRMATIVE ACTION POLICY:**

**The City of Berlin is an Equal Opportunity and an Affirmative Action Employer and employs qualified personnel without regard to Race, Creed, Color, Religion, Political Affiliation, Sex or Disability in accordance with all applicable State and Federal Employment Laws.**

(h) **Vacancies.** A vacancy within a department may be created by termination of employment or the creation of a new position. When a vacancy occurs in any department, the Department Head shall notify the City Manager of the vacancy by written memorandum briefly explaining the nature of the vacancy.

(i) **Relatives. (As per Definition 10. Immediate Family)** During the hiring process, the final selection of a candidate for a job offer shall be based upon qualifications, experience, licenses and certifications. Should an immediate family member of the City Council be an applicant, these same standards will apply but at no time shall the hiring be based upon their relationship with a Council member. No immediate family of a Department Head shall be hired or employed by that same department. No immediate family of a department supervisor shall be hired and employed in a City work situation whereby they would be supervised by their immediate family.

The above policy shall be adhered to unless it is determined that the immediate family candidate is more qualified, including special licensing, certifications and technical skills than the other candidates.

**10. PERSONNEL IN THE EMPLOYMENT OF THE CITY.**

Personnel in the employment of the City at the time these personnel rules and regulations are adopted shall not be required to undergo any competitive examination for the position they are then assigned.

**11. WORK DAY.**

The nominal work day consists of seven hours and begins at 8:30 a.m. and ends at 4:30 p.m. or as established by the Department Head and approved by the City Manager.

Employee breaks and lunch periods shall be governed by the collective bargaining agreement and as established by the Department Head. An employee from the Collection Department must be present during the full eight hours of operations. Any employee who works a nominal 40 hour work week shall be scheduled for their lunch break and daily hours to be worked by their Department Head.

A regular full-time employee may, upon approval of the Department Head and City Manager, reduce their nominal work day and work week provided the Department's goals and workloads will be accomplished. Employees covered by collective bargaining agreements shall work with their representatives in addition to the city officials stated above. Under these circumstances, the employee's status becomes regular part-time and will be subject to those benefit levels for employees in that category.

## **12. TEMPORARY VACANCIES.**

When an employee, other than for training purposes, temporarily fills a vacancy for longer than thirty (30) working days and thus serves in a job assignment higher than his/her own job classification which results in taking an acting role for a position other than their existing job classification, or when an employee works in an acting role that requires greater responsibility than their regular classification; that employee will be temporarily compensated (during the period that they are "acting") at a pay rate between the pay rate of the vacant position or the position requiring greater responsibility and at a pay rate within that pay range which will result in compensation being paid to the "acting employee" that is at least greater than the current pay level which the employee is receiving in his/her regular assignment and shall be subject to any relevant collective bargaining agreement. The City Manager shall review and approve all assignment and compensation changes.

## **13. COMPENSATORY TIME OFF.**

All regular, non-unionized personnel who are covered by these policies shall also be governed by the FLSA, who work 35 hours per week shall receive compensation time off at a rate of (1) hour for each one (1) hour in excess of their 35 hour work week. Any hours worked beyond forty (40) hours shall receive compensatory time off at a rate of time and one-half for each hour worked. Employees considered exempted must recognize that their professional positions generally require a certain amount of hours worked beyond the normal work week and while they accrue compensation time off at the above rate, actual draw down may only be  $\frac{1}{2}$  to  $\frac{1}{3}$  of the compensation time off accrued. Department Heads will continue to take time off, by notifying the City Manager, recognizing that additional hours worked are considered part of their professional job assignments to insure the department's overall productivity. In all cases, compensatory time off shall be taken within three months of its accrual, except where prior approval by the City Manager is obtained or as stipulated by any relevant collective bargaining

agreement. At no time will any employee be paid for accrued compensatory time off. Generally, employees experiencing continual excessive work hours should request a reassessment of their job requirement.

#### **14. PHYSICAL EXAMINATION.**

The City Manager may request of employees who regularly drive municipal vehicles or who may drive their own vehicles for the municipality and who receive regular compensation, to provide the City with an authorized note or certificate from a doctor stating that the employee's physical and/or mental health does not prohibit them from safely operating a motor vehicle. They must also possess a valid State of New Hampshire driver's license.

#### **15. OUTSIDE EMPLOYMENT.**

If secondary employment interferes with an employee's performance of duties or creates a potential conflict of interest, the Department Head shall give written notice to the employee which shall include a request to cease the secondary employment or face possible disciplinary action.

#### **16. PECUNIARY INTERESTS.**

No City employee shall have any personal or financial interest in or profit from any contract, service, purchase, sale, or work performed by the City; nor shall any employee solicit, receive, or agree to receive any compensation, gift, reward, gratuity or consideration from any source except the City of Berlin for any matter or proceeding connected with or related to the duties of such employee unless otherwise provided by law. This does not preclude the receipt of gifts or donations which are to be used for some aspect of services or programs offered through a department for the citizens.

#### **17. CONFIDENTIAL INFORMATION.**

An employee shall not disclose confidential information gained by him/her by reason of their official position except as authorized or required by law, nor shall he/she otherwise use such information for his/her personal gain or benefit. Such disclosure of confidential information by an employee could lead to disciplinary action which may include termination of the involved employee.

#### **18. USE OF PERSONAL PROPERTY OR EQUIPMENT OWNED BY THE CITY OF BERLIN.**

Quoted from Article 5:501 of the Codified Ordinances of the City of Berlin: "No personal

property or equipment of any nature of description, owned by the City of Berlin, or any of the departments thereof, shall be loaned for work not strictly carried on by said City or its departments; provided, however, that the City Council may vote, in its discretion, to loan equipment belonging to said City." Any employee found in violation of this Ordinance, may be subject to disciplinary action and after consideration, may be terminated from employment with the City.

#### **19. REPORTING OF ACCIDENTS.**

While in their official capacities, employees involved in or having any knowledge of any accident in which any person employed by the City or any property or equipment owned or operated by the City is involved, must immediately report the accident and pertinent information to the Police Department and the appropriate Department Head, who will forward the information to the Office of the City Manager and the Office of the City Comptroller, where applicable. Failure to comply with this policy may result in disciplinary action and possible loss of employment and benefits in addition to penalties as stipulated by state law.

#### **20. PERSONAL PHONE CALLS NOT PERMISSIBLE DURING THE WORKING DAY.**

The phones in the City's offices are for official City business only. If an employee receives a personal phone call, such employee must dispose of caller as soon as possible. This is not to say that the employee must be rude, but he/she should as tactfully as possible explain to the caller that personal phone calls are not permissible. Emergency toll calls must be authorized by the Department Head and must either be charged to the caller's home phone or the caller must reimburse the City for such calls, on a monthly basis.

#### **21. SOLICITATION OF CONTRIBUTIONS.**

No employee in the City service shall directly or indirectly contribute, solicit or receive, or be in any manner concerned in contributing, soliciting, or receiving any assessment, subscription, contribution, whether voluntary or involuntary, for any municipal/political purpose whatsoever, while they are involved in the performance of their job.

#### **22. EXPECTED CONDUCT ON AND OFF THE JOB.**

The following guidelines will assist City employees to know what is expected of them:

- 1) You are expected to conduct yourself at all times in a manner which will reflect favorably on the City

- 2) The taxpayer will expect a full day's work from you just as you will expect a full paycheck. Be at work on time and work up until the time that your work day ends
- 3) Absence from duty without reasonable cause and without due notice is cause for discharge
- 4) Provide care and maintenance of City property and equipment
- 5) The citizens and taxpayers of Berlin are our employers. They have every right to our courteous attention, sincere interest, and efficient service
- 6) Observe department breaks, or rest and lunch periods, without abuse
- 7) Obtain Department Head's permission before soliciting funds, selling tickets, or distributing literature on City property or during business hours
- 8) Cooperate in keeping the premises and equipment clean and in maintaining sanitary conditions
- 9) Carry out specific orders or instructions from your supervisor or Department Head
- 10) Truthfully give all pertinent facts on records prepared
- 11) Never report to work under the influence of liquor, narcotics, or unlawful and controlled drugs
- 12) Report to your supervisor any willful damage, theft or unauthorized removal of property belonging to the City or to another employee. Failure to follow the guidelines and roles listed in Section 17:121 will lead to disciplinary action or dismissal of the employee from the City.

### **23. CHAIN OF COMMAND.**

The City Manager must look to the Department Heads, office supervisors, foremen and all of the other employees for assistance in carrying out important responsibilities. Therefore, a chain of command is established.

One of the important persons in this chain is the Department Head. He/she is directly responsible to the City Manager for the smooth and efficient operation of a given department, for recommending the annual department budget for next year's expenses, as well as for maintaining the morale of each and every employee in their department. When hired, the individual will be responsible to their Department Head. They should turn to them for advice about benefits, work schedules, and, in reality, all the rules and regulations of City employment. Covered employees shall also refer to their collective

bargaining agreements and representatives.

Employees should be assigned a supervisor. In the case of Department Heads, the City Manager is the supervisor. In the case of other employees, a foreman, Department Head or other person is so designated. When difficulties arise, you should always see your supervisor first. It is part of the supervisor's responsibility to see to it that you are treated with respect, just as they will try to find agreeable solutions to your problems.

#### **24. PETTY CASH PURCHASES.**

Quoted from Article 5:401.6 of the Codified Ordinances of the City of Berlin "The City Manager is authorized to create petty cash funds and to designate the amounts and custodian of the funds. Petty cash may be used for effecting small purchases or payments where cash may be required or be most efficient or practical. The purpose being to eliminate processing costs and the issuance of checks for small item purchases and thereby reduce overall cost total to the City."

"The following regulations will apply to all petty cash funds":

- (a) "No personal checks are to be cashed for any reason whatsoever."
- (b) "Reimbursement is to be made to personnel authorized by the Department Head only. It shall be the responsibility of the Department Head to properly code or classify the item or expenditure, and their written approval shall be taken as proper authorization for the custodian of the fund to charge their department when replenishing the fund."
- (c) "Reimbursement is not to be made until a valid invoice marked "paid" or a valid receipt, or certificate of expenditure is received by the fund custodian."
- (d) "No reimbursement is to be made for sales tax unless the item was only available from a source subject to a sales tax not exempted by the City's Federal ID number."
- (e) "No reimbursement is to be made for items where it appears that the purchasing regulations are being evaded."
- (f) "Each petty cash fund will be subject to audit at any time."

"Custodians of petty cash funds are to requisition for replacement of the fund as needed. Standard current voucher for payment procedure shall be used for this purpose through the Finance Department."

"The City Manager may establish such additional rules and regulations regarding petty

cash funds as he deems necessary."

## **25. UNAUTHORIZED ABSENCE.**

No employee of the City of Berlin shall be absent from duty without permission. Any absence of an employee from duty, including the absence for a single day or part of a day, which is not authorized under provisions of this Plan shall be investigated by the appropriate supervisor and shall be reported to the Department Head and City Manager for action. Any such absence may be cause for disciplinary action by the Department Head and the individual may be asked to resign such position. Any employee who shall absent himself/herself without authorization may forfeit all compensation for the period of such absence and such actions will be subject to the collective bargaining agreements and the City Manager's discretion.

## **26. PERFORMANCE EVALUATIONS.**

An annual written performance evaluation may be made on each regular City employee. The evaluation shall cover the previous twelve month period and shall also be rendered on each seasonal and probationary employee covering his/her seasonal or probationary period of work. All results of the evaluation shall be maintained in the employee's personnel record.

Should an employee be evaluated as performing poorly, then that employee shall be notified if the problem(s) and the corrective measure to be taken to achieve a satisfactory level of performance and may be placed on a one (1) year probation with quarterly evaluations and in house training to promote better performance. Absence of measurable improvement during and at the conclusion of the one (1) year probation, said employee may be terminated.

The purpose of this evaluation is for establishing and maintaining manner of performance records of his/her work for reference. Also, such a report will help the employee to improve his/her abilities and improve on any inabilities.

All employee work performance observations will be made openly to the rated employee. All employee written evaluations will be shown to the employee prior to being placed in the employee's official personnel file, and the employee shall acknowledge receipt of a copy of the evaluation in writing.

The individual who completes the form (rater) should be the one who is intimately familiar with the manner of performance of the person being rated. The heads of smaller departments should rate each of their employees. In larger departments, the Department Head shall select and designate those individuals who shall rate others.

One copy of an effectiveness/evaluation report of each employee will be furnished to the City Manager within thirty (30) days after the end of the period covered by the report. Reports and records are to be treated as confidential matters.

## **27. PROMOTIONS.**

(a) **Basis for Promotion.** Promotions to fill vacancies and positions of greater responsibility shall be based on the employee's ability and qualifications, past work performance, seniority, achievements in training programs, employee initiative and any pertinent collective bargaining agreement.

(b) **Examination May Be Required.** The City Manager and Department Head shall determine whether an examination is required to fill a vacancy in any department. In the event examinations are required to select candidates for promotion, the examination material and examiners shall be determined by the City Manager, in cooperation with the Department Head. Such examination shall be either in writing, oral, or both, and upon such matters as will fairly test the knowledge of the applicant for the requirements of the position to be held.

(c) **Notification of Examination.** Whenever the City Manager directs a promotional examination to be held, notice of such examination shall be published and posted in the department(s) in which eligible candidates are employed. Examinations shall be subject to collective bargaining agreement language.

It shall be the duty of the Department Head in each department where eligible candidates are employed to see that each eligible candidate is notified of the examination or has access to such notice. The posting period shall be for a minimum of five (5) work days.

(d) **Preference.** When two City employees appear equally well qualified for promotion to any position, preference shall be given to the employee with the greater seniority in the department where the vacancy exists. Should department seniority be equal, then length of service to the City shall be considered as a selection criteria. Any exceptions to this will be reviewed by the City Manager on a case-by-case basis.

(e) **Promotion Without Examination.** In special circumstances, the City Manager may authorize promotion without testing an eligible employee upon Department Head presentation of a written statement showing that the duties performed by the employee nominated are natural preparations for the higher position, that such employee is entitled to promotion by reasons of service and effective performance and that no other employee of the department meets the foregoing conditions.

(f) **Promotional Probationary Period.** Any employee selected for promotion advancement shall serve a promotional probationary period of six (6) months or the time specified in writing by the City Manager and be subject to Section 17:108e. Upon promotion, the employee shall be reclassified in their new position.

During the probationary period, the Department Head shall evaluate the performance of the promotee on a monthly basis. Such evaluation shall be in written form with a copy provided to the promotee, City Manager and personnel file. If, at the completion of the trial period the promotee does not demonstrate the competence required to carry out the responsibilities of the position, the Department Head may, with the approval of the City Manager, cause the promotee to be returned to the promotee's former classification and pay upon the submission of written justification.

## **28. LAYOFFS.**

(a) **Cause.** The City Manager or Department Head (with approval of the City Manager) and subject to the respective bargaining agreements may lay off employees for any of the following reasons:

- 1) Reorganization resulting in the abolishment or consolidation of positions;
- 2) Shortage of funds
- 3) Shortage of work

(b) **Procedure.** No employee shall be laid off without first applying the procedures of the respective collective bargaining agreement. Employees not covered by a collective bargaining agreement shall meet with the City Manager who shall consider their performance and seniority with the City before any final decision.

(c) **Order of Lay Offs and Recalls.** In the event of lay off, the order of sequence shall be as directed by the appropriate collective bargaining agreement or in its absence as prescribed below:

- 1) Seasonal employees and temporary employees before part-time employees
- 2) Probationary employees before part-time employees (date of hire shall guide the decision assuming no special requirements or criteria. Exceptions shall be where positions are being eliminated and essential skills will become a determining factor in order to accomplish the services)
- 3) Part-time employees before regular full-time employees
- 4) Regular full-time employees based upon:
  - a) Years of employment with the City and
  - b) Organizational requirements and position requirements

**NOTE:** In critical positions, part-time probationary personnel will be laid off before regular probationary personnel.

(d) **Exceptions.** The City of Berlin reserves the right to retain or recall certain key employees out of the normal order of lay off, recall and seniority sequence. The City is not obligated to recall an employee to the same or equal position or for the same rate of pay. The City may also establish part-time and temporary employment to accomplish the work within the budget or situation constraints.

## **29. DEMOTION.**

(a) **Cause.** A Department Head, after consulting with the personnel officer, and with the approval of the City Manager, reduce the salary of an employee or demote the employee for just cause. When an employee is demoted to a lower classification, his/her salary shall be set at the rate in the lower pay level which provides the smallest decrease in pay. The effective date of the demotion will be established. This procedure shall be consistent with any collective bargaining agreement.

(b) **Procedure.** A written notice of the reasons for demotion or reduction in salary shall be furnished to the employee and their collective bargaining unit representative by the Department Head, and a copy filed with the City Manager at least five (5) days prior to the effective date of the action.

## **30. APPLICATION AND TYPES OF DISCIPLINE.**

(a) Discipline should be corrective in nature, and depending on the seriousness of the offense, may be progressive in severity, moving from an oral reprimand, to a written reprimand, to a disciplinary suspension, and culminating in discharge. Management may exercise its discretion to terminate an employee for offenses or violations other than those designated below. This shall be accomplished in compliance with any rights an employee may have under the New Hampshire Right-to-Know Law, RSA 91:A and their collective bargaining agreement, if applicable.

(b) Reprimand of an employee shall be done in a manner which will not embarrass the employee before other employees or the public.

An employee may be suspended without pay when the employee's conduct, either on or off the job, effectively limits or curtails the ability of the employee to perform an assigned job as outlined and set forth in the employee's job description.

## **31. DISCIPLINARY ACTION.**

(a) **Demotion or Dismissal.** The Department Head or City Manager or both may take disciplinary action against any municipal employee for justifiable cause which may result in demotion, suspension from duty without pay for a maximum period of thirty (30) days, or dismissal from employment with the City of Berlin. The City Manager may also require the individual(s) as deemed appropriate to participate in additional training or assistance to correct the cause of the problem. Dismissal may still occur if the individual(s) show no progress in correcting the offending action and attitudes.

(b) **Causes for Disciplinary Action.** The following listed actions are an example of some of the causes which may be considered for disciplinary action by the Department Head or City Manager or both:

- 1) Acts of insubordination toward any supervisory officer, Department Head or municipal officer.
- 2) Willful disregard or disobeying of a supervisor or incompetency.
- 3) Use of alcoholic beverages or controlled drugs while on duty or reporting for duty in an intoxicated condition.
- 4) Flagrant disregard for and violations of City Ordinances and State laws; and conviction of a felonious crime.
- 5) Willful misuse, theft, misappropriation, destruction or conversion of City property and equipment for personal use or gain.
- 6) Frequent tardiness or neglect of duty.
- 7) Accepting cash, gifts, or other valuable items for performing special favors through any municipal service.
- 8) Uncivil or discourteous attitude and the use of indecent, abusive, lewd, and slanderous language toward the public or fellow employees including harassment and discrimination.
- 9) Incompatibility with fellow employees adversely affecting job performance of the employees or fellow employees.
- 10) Being absent from work without authorization or failing to report to one's supervisor the cause of an absence.

(c) **Notice of Disciplinary Action.** Any employee upon whom disciplinary action is

to be taken shall receive written notice of the reason for disciplinary action to be taken within forty-eight (48) hours.

(d) **City Manager to be Notified.** In any case where a Department Head takes disciplinary action against any employee of his department, he/she shall within forty-eight (48) hours of the action taken, notify the City Manager in writing against the specific nature of the infraction and the disciplinary action by him.

(e) **Disability.** If an employee, who because of a permanent, total, or partial disability (whether mental or physical), as certified by a competent licensed medical practitioner, cannot effectively and efficiently carry out the essential duties of his/her job, then the City Manager, the employee and Department Head shall review the employment situation and, where practical, reasonable and feasible for the City, modify the job or if a vacancy occurs within the City and the employee is qualified and has basic functional skills applicable to the job vacancy, permit said employee to transfer to this new job with a probationary period. If during the probationary period or an evaluation period of one month where a job was modified, said employee cannot effectively and efficiently carry out the duties of the job, then the employee will be terminated, after written notice. Any such employee is entitled to any vacation leave or other benefits that may have been accrued during employment with the City and are payable upon separation as defined in Section 17:130.

(f) **Reasons for Dismissal.** An employee may be dismissed whenever, in the judgment of the appointing authority, the employee's work or conduct so warrants. Reasons for dismissal may include, but shall not be limited to:

- 1) Alcohol or drug abuse on the job or arriving on the job under the influence of alcohol or a controlled substance
- 2) Dishonesty
- 3) Recklessness on the job
- 4) Inefficiency pertaining to work
- 5) Habitual tardiness
- 6) Failure to obey an oral or a written reasonable order
- 7) Discrimination and harassment including but not limited to the use of abusive language toward a superior, a co-worker, or the general public;
- 8) Conviction of a felony or any offense involving the violations of official duties;

- 9) Fraudulently obtaining any form of leave;
- 10) Misuse of City property and assets.

The Department Head or appointing authority may discharge an employee from the service of the municipality for the above stated and for any of the Disciplinary Action Rules stated in Section 17:130 of this Personnel Policy and any applicable collective bargaining agreement, and for other reasons deemed appropriate, provided that the Department Head or appointing authority submits to the employee and the City Manager in writing forty-eight (48) hours after such discharge, a copy of the charges or reasons for such action.

**(g) Suspension.** An employee may be suspended up to two (2) weeks by the Department Head or his designated representative subject to final approval by the City Manager. Reasons for suspension include but are not necessarily limited to the following:

- 1) Misconduct
- 2) Negligence
- 3) Inefficiency
- 4) Insubordination
- 5) Disloyalty
- 6) Unauthorized absence
- 7) Harassment and/or discrimination in the performance of their duty

The Department Head or appointing authority may suspend an employee from the service of the municipality for the above stated and for any of the Disciplinary Action Rules stated in Section 17:130 of this Personnel Policy, the applicable collective bargaining agreement or for other reasons deemed appropriate, provided that the Department Head or appointing authority submits to the employee and the City Manager in writing forty-eight (48) hours after the suspension, a copy of the charges or reasons for such action.

### 32. SICK LEAVE.

(a) **Basis for Sick Leave Credit.** Each regular and probationary employee may earn one (1) working day per full month of employment to use as sick leave.

(b) **Notification.** In order to be eligible for paid sick leave, the employee shall notify the Department Head or his/her supervisor, at least 2 hours before the time set for reporting for his/her regular duties. The employee shall notify the Department Head at least 3 days prior to hospitalization or home confinement due to medical reasons upon instruction from a physician. More than 3 days off requires a physician's permit to return to work. This must include the reasons for absence. In the event that sickness, hospitalization, or disability occur so as to prevent the employee from notifying his Department Head in advance, he shall cause notification to be sent to the Department Head within 24 hours of said occurrence as per the collective bargaining agreements.

(c) **Privilege, Not a Right.** The City of Berlin views sick leave as a privilege granted by the City and not a right of the employees and all City employees are advised of this. Abuse of sick leave may lead to its being withheld pending further review and medical documentation by the employee.

(d) **Sick Leave for Family Purpose.** The granting of up to ½ day of sick leave with pay shall be authorized when there is illness, or an emergency situation involving a member of the employee's immediate family, which requires the employee's attendance. Any additional time requested by the employee for immediate family emergency purposes must be authorized by the Department Head with concurrence by the City Manager per the Family Medical Leave Act of 1993.

(e) **Sick Leave During Sick Period.** Earned sick leave of one (1) day per month shall continue to accrue for any employee who is absent because of illness, remaining as an employee of the City and provides any required medical documentation.

(f) **Sick Leave to Accumulate.** Each regular and probationary employee not covered by a collective bargaining agreement may accumulate earned sick leave on the basis of one (1) working day per full month of employment (the probationary employee who does not successfully complete their probationary period and is terminated will not receive any sick leave or payment). Sick leave may be accumulated for a period up to, but not exceeding, seventy-one (71) days unlimited for a Department Head but for purposes of any payout to Department Heads, their CBA that is currently capped at a maximum of 100 days on the record will govern it. An employee who is off the payroll for six or more days during any month due to termination or separation from employment shall not accrue a sick day for that month.

(g) **Vacation Time as Sick Leave.** The employees of the City may elect to use vacation time as sick leave upon the exhaustion of all accrued sick leave due the employee. Accrued sick leave shall not be used as vacation time.

(h) **Sick Leave in Conjunction With Other City Benefits.** All employees covered by these policies who go on work related or non-work related injury/sick leave, disability or maternity leave, will not be able to receive in excess of 100% of their regular weekly wages or salary by collecting sick leave or vacation leave in conjunction with other City provided benefits and/or insurances.

(i) **Department Head Sick Leave Accrual.** A Department Head will be permitted to accrue an unlimited number of sick leave days which may be used in accordance with the above sick leave requirements or as per the appropriate collective bargaining agreement.

(j) **Sick Leave Review.** The City Manager shall be informed of all cases in which an employee is out on an extended sick leave (25 days or more).

(k) **Sick Leave and Personal Days.** Employees who go six months without the use of a sick day will earn one personal day which must be used, by prior authorization of the Department Head, within the next twelve (12) calendar months.

### **33. SPECIAL LEAVE OF ABSENCE.**

A regular full-time employee may be granted a leave of absence without pay, subject to appropriate approvals, for a period not to exceed one year, for such compelling reasons as travel or study calculated to equip the employee to render more efficient service to the City.

Such leave must be deemed to provide adequate value when measured against the obligation of the City to maintain a position open and/or to fill it temporarily until the return of the employee. Requests for such leave shall be submitted in writing, detailing the reasons for and duration of the requested leave.

Any full-time employee granted a leave of absence without pay shall be entitled to restoration to duty at the same classification and at the pay rate currently in effect. The employee shall notify his respective Department Head in writing of his intention to return to work at least fourteen (14) days in advance of the day he intends to return to work. Any employee who has taken a special leave of absence, shall not accrue vacation days, sick days, etc. for the period he/she was absent from work, but shall be permitted to carry group health insurance and group life insurance at the group rate and at their own expense.

**34. LEAVE OF ABSENCE.**

Emergency leave may be granted by the City Manager for emergency purposes and authorize the days of leave be charged to the employee's accrued sick leave or accrued vacation leave, whichever is appropriate, except that funeral leave shall be granted in accordance with the following and not be charged to the employee's accrued leaves:

(1) Funeral leave for death in the immediate family:

- (a) Spouse.....5 days
- (b) Children .....5 days
- (c) Parents .....5 days
- (d) Brother/Sister .....3 days
- (e) Mother/Father-in-law.....3 days
- (f) Employee's Grandparents .....3 days  
Employee's Grandchildren .....3 days
- (g) Spouse's Grandparents .....day of funeral
- (h) Spouse's Brother/Sister .....day of funeral
- (i) Step Mother/Father/Brother/Sister .....day of funeral

Funeral leave shall be inclusive of any holiday(s) and weekends which may occur during the funeral leave period. Employees not expecting to work because of a death in the family must notify their Department Head as soon as possible.

(2) If an employee is subpoenaed to appear before a court;

(3) **Court Leave.** Employees who are called for jury duty shall be granted leave with pay. If the jury fees amount to less than the employee's regular rate of compensation, the employee shall be paid by the City an amount equal to the difference between them. Notice of service shall be filed with the Department Head upon receipt of summons.

(4) **Military Leave.** Any full-time employee who is a member of regular reserve components of the armed forces of the United States or the National Guard may

be granted two weeks leave each year for active duty training. Upon presentation of the proper evidence, the differential in pay between the employee's regular wages and the military pay will be paid by the City to the employees.

(a) **Entitlement.** Any regular employee of the City of Berlin who is drafted, or is called into active duty with the Armed Forces of the United States of America for a maximum period of four (4) years plus any involuntary extension, shall be granted a leave of absence without pay.

(b) **Disabled Veteran.** Any employee who becomes disabled by reason of his military service with the Armed Forces of the United States, and is unable to perform the duties of his former positions, shall be entitled to re-employment in a position with duties which he/she can perform both physically and mentally, providing such a position exists.

(c) **Notice of Return to Employment.** Any employee who has been on leave of absence from the City to serve in the Armed Forces of the United States, and who desires to return to employment with the City of Berlin, shall, not less than thirty (30) days prior to his release or discharge, submit a request for re-employment.

(d) **Notification of Military Commitment.** Upon notification from the United State Government to report for duty in the Armed Forces, the employee shall notify his Department Head in writing and request a leave of absence without pay.

(e) **Restoration to Employment.** Upon Honorable Discharge from the Armed Forces of the United States, the employee shall be restored to duty at the same classification, accumulate seniority status, and be allowed to participate in the fringe benefit program of the City as though their employment had not been interrupted by military service. In addition, the employee shall be paid at the pay rate then currently in effect for their position classification.

(5) **FMLA (adopted by City Council January 28, 2019)**

Consistent with the federal Family and Medical Leave Act of 1993 (FMLA) and its amendments, the City of Berlin recognizes that eligible employees have access to unpaid family and medical leave for up to twelve (12) workweeks within a twelve (12) month period. Eligible employees may take up to 12 workweeks of FMLA in a 12-month period for the following qualifying reasons:

- a. The birth of a child and to bond with the newborn child (leave must be taken within 12 months of the child's birth);

- b. The placement with the employee of a child for adoption or foster care and to bond with the newly placed child (leave must be taken within 12 months of placement);
- c. To care for the employee's family member (minor child, spouse, parent, or adult child incapable of self-care) who has a serious health condition, including incapacity due to pregnancy and for prenatal medical care;
- d. A serious health condition that makes the employee unable to perform the functions of the employee's job, including incapacity due to pregnancy and for prenatal medical care;
- e. Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

Additionally, eligible employees may take up to 26 workweeks of leave in a single 12-month period to care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member (referred to as military caregiver leave). An eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reason during the single 12-month period.

The method used by the City of Berlin to determine an employee's eligibility and amount of FMLA leave available is the 12-month period measured forward from the date an employee first uses FMLA leave (each time an employee takes FMLA leave, the remaining leave is the balance of the 12 weeks not used during the 12-months following the date of first FMLA leave use). FMLA will begin on the first day of leave requested by the employee, if prior notice has been provided, as noted on USDOL Form WH-381, or when the employee is unable to provide prior notice, on the date indicated by the City on the notice form (USDOL WH-381).

1. Eligibility: To be eligible for FMLA leave, an employee must have been employed by the City of Berlin for at least 12 months (which need not be consecutive); have performed at least 1,250 hours of work with the City within the previous consecutive 12-month period; and work at a worksite where 50 or more City employees are employed within a 75-mile radius as of the date when the employee gives notice of the need for leave. With respect to the requirement of 1,250 hours of work with the City within the previous consecutive 12-months, the principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave shall not be counted in determining the 1,250 hours eligibility test for an employee under the FMLA.

2. Procedure for Requesting FMLA Leave: An employee needing leave under this policy should follow the procedures below for notifying the City of Berlin of the need for leave. In addition, the City reserves the right to designate qualifying time off as FMLA leave even if the employee does not request FMLA.
- a. If the need for leave is foreseeable, an eligible employee shall notify the City's Finance Director or Benefits Specialist at least 30 days in advance of the anticipated start date of the leave. Examples of foreseeable leave include an expected birth, placement for adoption or foster care, or planned medical treatment for the employee or an eligible family member.
  - b. If the need for leave is not foreseeable, the employee must provide the City's Finance Director or Benefits Specialist with notice as soon as practicable under the circumstances.
  - c. If the employee is not able to give notice of the need for leave personally due to his/her own serious medical condition, then the employee should have someone else notify the City's Finance Director or Benefits Specialist on his/her behalf.
  - d. Failure to provide timely notice may be grounds for delaying the leave.

An employee needing leave must make a request to the City's Finance Director or Benefits Specialist and must explain the reason(s) leave is needed and the anticipated timing and duration of the leave. For employees needing FMLA leave, it is not enough to just call in "sick" as this does not provide enough information to identify that the absence may be FMLA qualifying.

If an employee is requesting FMLA for the first time, the employee must give enough information so that it is clear that the leave may be FMLA qualifying. Examples of information that would satisfy this requirement include that the employee is injured or ill and unable to perform job functions; the employee is pregnant; the employee has been hospitalized overnight; the employee or covered family member is under the continuing care of a health care provider; a covered military member is on active duty or called to active duty and leave is needed for a qualifying reason to prepare for the active duty service; if the leave is for a family member, identification of the family member's relationship to the employee and that the family member is unable to perform daily activities because of a health condition.

If it is unclear whether the employee is requesting leave for a reason that may be FMLA qualifying, the City's Finance Director or Benefits Specialist or its designee may contact the employee and request additional information. Employees are

expected to supply the requested information as soon as possible within 15 days unless an extension is requested and approved.

3. Required Certifications to Document the Need for Leave: The type of certification depends on the reason for the FMLA leave. As applicable, the employee may be asked to provide a completed Certification of Health Care Provider for Employee's Serious Health Condition (USDOL Form WH-380-E or most recent), Certification of Health Care Provider for Family Member's Serious Health Care Condition (USDOL Form WH-380-F or most recent), Certification of Qualifying Exigency for Military Family Leave (USDOL Form WH-384 or most recent), or Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave (USDOL Form WH-385 or most recent). The employee may also be required to provide other supporting documentation.

Completed certification forms must be returned to the City's Finance Director or Benefits Specialist within fifteen (15) calendar days after the request for certification by the City. If an employee fails to provide the required completed form in a timely manner, the employee's leave may be delayed. If a complete and sufficient certification form is not provided at all, the City will not be able to determine the employee's eligibility for leave, and the leave may be denied.

Certification forms must have all applicable entries completed and must contain specific, not vague, ambiguous, or non-responsive statements. If a certification form provided by an employee is incomplete or insufficient, the City will provide the employee with written notice of what additional information is needed to make it complete and sufficient. An employee will have seven (7) calendar days from the date of the City's request to have the certification sufficiently completed and resubmit it to the City's Finance Director or Benefits Specialist. If the employee does not have the deficiencies in the certification form fixed within the 7-day period, FMLA leave may be denied.

If there is reason to doubt the validity of the health care provider's certification, the City, at its expense, may require an examination by a second health care provider designated by the City. If the second health care provider's opinion conflicts with the original medical certification, the City, at its option and expense, may require a third health care provider, agreed upon by the employee and the City, to conduct an examination and provide a final and binding opinion. The employee may request and receive copies of the second and/or third opinions.

The City of Berlin may also require subsequent re-certifications of the need for leave. Failure to provide re-certifications within fifteen (15) calendar days of the request from the City may result in delay or denial of further leave. In general, the City may request the employee to provide a re-certification no more often than every 30 days and only when the employee is actually absent or has requested

to be absent. The City may request a re-certification in connection with an absence by the employee in less than 30 days only if:

- a. The employee requests an extension of leave;
- b. The circumstances described by the previous certification have changed significantly; or
- c. The City receives information that casts doubt on the employee's stated reason for the absence or the continuing validity of the existing medical certification.

During recertification an employer may provide the health care provider with a record of the employee's absence pattern, such as an attendance record of FMLA leave use, and ask the health care provider if the serious health condition and need for leave is consistent with the absence pattern provided. Additionally, for serious health conditions, the City may contact the employee's health care provider to authenticate or clarify re-certification, but will not require a second or third opinion for recertification.

4. Intermittent or Reduced Leave Schedules: Under certain conditions, an employee is entitled to take FMLA leave on an intermittent or reduced schedule basis. "Intermittent leave" is leave taken in separate blocks of time rather than in one continuous period of time. A "reduced leave schedule" is one that reduces the usual number of hours/days per workweek or hours per workday. Intermittent or reduced-schedule FMLA leave will be allowed when medically necessary for the employee's own serious health condition, to care for a spouse, parent, or child with a serious health condition, or to care for a covered service member with a serious injury or illness. An employee is also entitled to use intermittent or reduced schedule leave for qualifying exigencies. FMLA leave taken on an intermittent or reduced schedule basis will be figured to the nearest quarter hour. Whenever possible, an employee granted intermittent or reduced schedule FMLA leave should try to schedule time out of work in such a manner so as not to unduly disrupt the City of Berlin's operations.

During intermittent or reduced schedule FMLA leave, the City continues to reserve the right to temporarily transfer the employee to an available alternative position with equivalent pay and benefits. Employees taking intermittent or reduced schedule leave will be paid for the time they work, and the leave time away from work will be unpaid unless the employee qualifies for workers' compensation benefits, short-term disability, or other benefits as provided for in the various collective bargaining agreements or City policies, as applicable. For salaried employees, the City of Berlin will adjust your salary based on the amount of time actually worked.

5. Determining Paid or Unpaid Leave: Generally, FMLA leave is unpaid leave. However, per 29 C.F.R. 825.207, the FMLA permits the employer to require an eligible employee to substitute accrued paid leave for unpaid FMLA leave. The term substitute means that the paid leave provided by the employer, and accrued pursuant to the employer's established policies or collective bargaining agreement as applicable, will run concurrently with the unpaid FMLA leave. Accordingly, the employee receives pay pursuant to the City's applicable leave policy or collective bargain agreement as applicable during the period of otherwise unpaid FMLA leave.

An eligible employee taking FMLA leave due to his/her own serious health condition may be entitled to receive short-term disability benefits or workers' compensation benefits while out on FMLA leave. In that event, the receipt of short-term disability or workers' compensation benefits run concurrently with the FMLA leave. When an employee is receiving short-term disability benefits or workers' compensation benefits these benefits will supersede the requirement for substitution of the employee's accrued paid leave. The difference between short-term disability benefits or workers' compensation benefits and normal wages will be supplemented with any accrued paid leave available. If an employee continues to have accrued paid leave on the books after the 12 week FMLA period, this paid leave shall remain available to the employee until it is exhausted per the City's policy and/or applicable collective bargaining agreement. Access to FMLA does not add to or delete from an employee's accrued paid leave. FMLA is unpaid leave which runs concurrently with other paid leaves (i.e. sick, comp., vacation) when they are available and required to be used.

If an employee is not receiving short-term disability, workers' compensation or other benefits payments, the employee must apply his/her sick time to the FMLA leave if the FMLA leave is due to the employee's own serious health condition. If paid sick leave is exhausted or not applicable, then the employee must apply any accrued comp time. When accrued comp time is exhausted the employee must use accrued vacation time. The receipt of sick pay, comp time and/or vacation pay runs concurrently with the FMLA leave and does not extend the 12 FMLA workweeks. As noted in the last paragraph; if an employee continues to have accrued paid leave on the books after the 12 week FMLA period, this paid leave shall remain available to the employee until it is exhausted per the City's policy and/or applicable collective bargaining agreement. Access to FMLA does not add to or delete from an employee's accrued paid leave. FMLA is unpaid leave which runs concurrently with other paid leaves (i.e. sick, comp, vacation) when they are available required to be used.

Employees on FMLA leave shall be considered on leave status. All earned City benefits will cease to accrue upon commencement of FMLA leave and while on

leave status, with the exception that City benefits may continue to accrue per the terms and conditions of an applicable collective bargaining agreement during FMLA leave (ex. when the employee is taking accrued paid leave, sick or vacation, concurrently with the FMLA leave). Employees taking FMLA leave on an intermittent or reduced schedule will have said benefits restored on a prorated basis.

Employees on FMLA leave who participate in the City's health insurance benefit are entitled to have their health benefits maintained while on FMLA leave under the same terms and conditions applicable to employees not on leave. If an employee is receiving paid time off benefits from the City for any portion of the leave (i.e. sick pay, vacation pay) then the City will continue to deduct the employee's share of the health insurance premiums from his/her paycheck as usual. If the FMLA leave is unpaid or paid through a benefit not provided through the City's payroll system, the employee must pay his/her portion of the premium by making arrangements with the City. An employee's health insurance benefit may be cancelled if the employee's premium payment is more than thirty (30) days late. The City will provide written notice to an employee whose premium payment is more than thirty (30) days late that payment have not been received and that his/her health insurance coverage will end at a specified date after the date of the written notice unless payment is received by the specified date. This written notice will be mailed to the employee at least 15 days before coverage is to cease.

6. Reinstatement Following FMLA Leave: Employees returning from FMLA leave who are able to perform their job functions will normally be reinstated to their prior positions or equivalent positions. Circumstances under which employees on FMLA leave might not be reinstated include the following:
  - a. They cannot perform the essential functions of the job, with or without a reasonable accommodation(s);
  - b. They would not otherwise have been employed at the time they request reinstatement (for example, intervening lay-offs, position eliminations, reduction in force, etc.);
  - c. They are denied reinstatement under the "key employee" provisions of the FMLA.
7. Returning From FMLA Leave: If an employee takes FMLA leave for his/her own serious health condition, the City will require with a fitness for duty certification with regard to the particular health condition(s) that was the cause of the leave. It is the employee's responsibility to obtain the fitness for duty certificate, and failure to do so will result in the delay or denial of your reinstatement.

8. Communication During Leave: It is the employee's responsibility to contact the City's Finance Director or Benefits Specialist during FMLA leave regarding any changes in status and his/her intention to return to work.
9. No Other Work While On FMLA Leave: Working at another job (including self-employment) while on FMLA leave or any other authorized leave may lead to disciplinary action, up to and including termination of employment.
10. Reference to the FMLA and its Implementing Regulations: The FMLA and FMLA regulations issued by the U.S. Department of Labor contain many definitions, limitations, and qualifications that are not stated in this policy. The City of Berlin reserves the right to apply the terms of the FMLA and the FMLA federal regulations.

### **35. PROCEDURES IN REQUESTING LEAVE.**

(a) **Forms.** An employee requesting a leave for any reason (vacation, personal, maternity, ~~family and medical~~, etc.) must complete and sign three (3) copies of a leave form obtained from the Department Head. A standard form shall be issued by the City Manager to each department. Department Heads shall be authorized final approving authority for employees under their jurisdiction. The City Manager will have final approving authority for absences of Department Heads and other personnel under his immediate supervision.

(b) **Records.** After approval of the leave by the approving authority, a copy of the leave form shall be distributed to the following: Employee, Department Head, and City Manager. At the beginning of each year, the Finance Department shall issue a report to each employee showing amounts of accrued vacation leave and accrued sick leave.

### **36. STAFF DEVELOPMENT/EDUCATION.**

(a) **Educational Leave at Employee Request.** All full-time, non-probationary City employees may be granted educational leave during the working day subject to the following:

- (1) The employee requests a specific period of time as educational leave from the Department Head.
- (2) The employee provides adequate documentation of the course subject, content and other particulars as required.
- (3) That said course is directly related to the employee's work responsibilities rather than a requirement of a degree program or outside certification.
- (4) That the Department Head's evaluation of the loss of the employee's services will not severely impact the functions of the office or Department Head.

The City agrees to grant said leave without the employee losing their regular wages or fringe benefits, but reserves the right to rescind the authorization in cases of policy abuse or a change in work requirements.

(b) **Conferences and Training During Working Hours at Department Head's Request.** During the course of a fiscal year, the Department Head may authorize supervisory and non-supervisory employees to attend specific conference and/or training-staff development programs without loss of regular pay subject to the following:

- (1) The program selected is directly related to the employee's work responsibilities.
- (2) The program will improve the skills and knowledge of the employee and therefore, their work productivity.
- (3) Said employee has not attended a conference or training program within the previous 12 months. This may be waived if the nature of the conference and/or training session is determined by the Department Head as being of exceptional value for the overall services in their department.
- (4) The department's budget has the appropriated funds to cover the costs to be incurred limited to: transportation, lodging, registration for the program, program materials, meals and those expenses directly related to the program excluding personal effects.
- (5) The Department Head's evaluation indicates that the employee's absence

will not impair the department's functions.

- (6) The City Manager authorizes no more than one (1) employee from the same department or more than two (2) employees from the City at the same time except in unusual circumstances.

(c) **After Working Hours Education.** All regular, non-probationary employees of the City will be reimbursed the cost of any approved post-secondary course taken on the employee's own time subject to the collective bargaining agreements and the following:

- (1) The course is approved by the Department Head and in concurrence with the City Manager prior to actual taking of the course.
- (2) The course is directly related to the employee's present or probable future work responsibilities and will improve the skills, knowledge and work productivity of the employee.
- (3) At end of the course, the employee provides a copy of their grade slip as proof of having completed and passed the course. This will be documentation for payment of the cost of said course.
- (4) The employee may be reimbursed for no more than two (2) courses per year subject to the availability of funds.
- (5) The department's budget has sufficient appropriated funds to cover the costs of such reimbursements to employees considering such approved courses.
- (6) The reimbursement program will not adversely impact the department's capability of participating in higher priority conference, training and/or course opportunities in the fiscal year.
- (7) If an employee of the City takes an approved post-secondary course that is directly job related to their current position or is at the request of the City, then upon proof by the employee in accordance with paragraph three (3), will be reimbursed for the full cost of said course subject to paragraph five (5).

### 37. **VACATIONS.**

(a) **Entitlement.** Each regular employee in a full-time position shall accrue vacation days with pay as follows except for those employees covered by collective bargaining

agreements:

- (1) A new employee shall not accumulate nor use vacation days during the first six months of employment.
- (2) An employee shall be credited with five vacation days upon completion of his/her first six months of employment, and a total of 10 vacation days after the first year.

(b) **Payment in Advance.** Employees shall be able to receive their vacation pay in advance of such vacation and shall be required to submit such request in writing to the Department Head two (2) weeks prior to the starting date of the vacation.

(c) **Scheduling of Vacations.** Each employee must fill out a "leave form" already stated in Section 17:134. All Department Heads shall schedule vacations, giving due consideration to the needs of the department and the ability of the remaining staff to perform the duties of the department. The employee shall be permitted to take vacation leave at such time as, in the judgment of the Department Head, it will best serve the interest of the City and the employee.

(d) **Suspension of Vacation.** Department Heads shall have the power to suspend any vacation leave with the consent of the City Manager if the needs of the department require such action. If an employee's vacation is suspended, the Department Head shall reschedule any remaining vacation days, giving due consideration to the wishes of the individual involved.

(e) **Working Vacations Disallowed.** Vacations with pay are intended as a period of rest and relaxation, and no employee shall be allowed to work for the City during his vacation to receive extra pay.

(f) **List of Accrued Vacations.** (1 week = 5 vacation days)

AFTER WORKING YEARS	PAID VACATION (WEEKS)
1	2
6	3
12	4
18	5
22 or more	6

Vacations must be taken during the 12 months following the accruing year, based on the employee's anniversary date of employment with the City and cannot be accumulated from one year into the next. Any exceptions to this must be approved by the City Manager.

### 38. PAID HOLIDAYS

The employees of the City of Berlin shall be entitled to receive pay for the official legal holidays as herein established or per the applicable collective bargaining agreement and computed on the regular base pay rate of the employees.

In the event that work is required of any employee on any of the scheduled official holidays, the employee shall receive either compensatory time off or shall be paid at a rate of time and one-half for all hours worked on said holiday. In no case shall the compensatory time off and/or time and one-half pay be equal to less than seven (7) hours, eight (8) hours where applicable, plus their regular holiday pay except Department Heads.

If an employee takes his earned vacation during a period which includes an official legal holiday, the employee shall receive an extra day of vacation.

In order to be eligible for holiday pay, the employee must work the regular work day prior to and following an official legal holiday unless the employee is on legitimate sick leave, injury leave or vacation.

A Department Head or the City Manager may approve alternate holidays or compensatory time off in lieu of a holiday under appropriate circumstances. If any holiday falls on a Sunday, the following Monday shall be considered the holiday. If a holiday falls on a Saturday, the preceding Friday shall be considered the holiday.

The official paid legal holidays of the City of Berlin are hereby established as follows:

New Year's Day .....	January 1
Civil Rights Day .....	3rd Monday in January
Washington's B-Day .....	3rd Monday in February
Good Friday .....	Friday Afternoon Preceding Easter
Memorial Day .....	May 30
Independence Day .....	July 4
Labor Day .....	1st Monday in September
Columbus Day .....	2nd Monday in October
Presidential Election .....	1st Tuesday in Nov. (Every 4th year)
Veteran's Day .....	November 11th
Thanksgiving .....	4th Thursday in November
Day after Thanksgiving .....	In lieu of Federal Election day
Christmas Eve afternoon. . . . .	December 24
Christmas .....	December 25
New Year's Eve afternoon . . . . .	December 31

The City Manager will determine if additional or alternative paid legal holidays are to be authorized for employees and such dates may be subject to change as per the

appropriate collective bargaining agreement.

**39. GROUP INSURANCE POLICY.**

The City of Berlin shall pay its share of the premium for the various levels of a group insurance program as listed below based upon approval of the City Council. The group plan provided life insurance (according to the table) accidental, death and dismemberment insurance and accident and sickness insurance (2/3 of wages, maximum \$300 benefit for 52 weeks).

<u>Employee Group</u>	<u>City Pays 100% Life Insurance</u>	<u>Employee Pays for Add'l</u>
Support Staff	\$15,000	up to \$15,000
Supervisory (Foreman)	\$20,000	up to \$20,000
Department Heads	\$25,000	up to \$25,000

Any employee electing to purchase additional insurance up to their categorical maximum must do so in increments of \$5,000.00.

**40. HEALTH INSURANCE.**

The City of Berlin currently pays 100% of the premium for the health insurance which is currently Blue Cross/Blue Shield Health Insurance; JW - \$1,000,000 Major Medical or as specified by the collective bargaining agreements. A medical benefits extension program may be conditionally offered subject to the availability of the proper co-insurance information and a minimum, number of participants. This program, when offered, is for the employee only.

Should the employee be required to participate in the cost of the health insurance, the City will establish a Section 125 plan that will permit contributions by the employee(s) for their share.

**41. RETIREMENT.**

The City's retirement age is 70 and an employee must retire no later than the day preceding his/her 71<sup>st</sup> birthday. However, the City Council may grant a waiver of this provision for one year periods if (a) a qualified replacement is unavailable, or (b) an extension is in the best interest of the City; and the City's physician determines that the employee is physically able to perform his/her normal duties.

Seasonal or part-time employees over the age of 70 may be employed without the requirement of City Council's waiver upon determination by the City's physician that they are physically able to perform their normal duties.

**Early Retirement Plan.** The City will make a special early retirement program available to its employees. A participating employee will receive, in addition to all accrued retirement benefits, fully-paid health insurance with benefits not less than those now in effect from the early retirement age of sixty-two (62) until he/she reaches age sixty-five (65), plus one hundred percent (100%) of sick pay accrued but up to the maximum permitted for payout purposes at time of the early retirement (100 days for Department Heads) and all accrued vacation pay.

**42. UNEMPLOYMENT AND WORKERS' COMPENSATION.**

As provided by State Law, the City of Berlin provides all of its employees with unemployment compensation and workers' compensation insurance as per policy limits.

**43. SEPARATION FROM EMPLOYMENT.**

Employees who leave the service of the City for any reasons listed below shall receive all pay which may be due them with the following stipulations:

(a) **Resignation.** All unused vacation leave accrued and said employee leaving the service of the City in good standing, may be eligible for severance pay under a voluntary resignation provided the employee provides at least two (2) weeks' notice of intent to leave to the Department Head, in writing.

<u>Full Years of Service Completed</u>	<u>Severance</u>
	<u>Sick Leave Days on Record</u> (not to exceed retirement levels)
10-14 years	30%
15-19 years	50%
20-24 years	70%
25 and over	100%

(b) **Termination.** All unused-accrued vacation leave will be paid to the employee. No sick leave will be paid subject to the decision of the City Manager who shall make the final determination on a case by case basis and report the rationale to the City Council.

(c) **Death.** All unused-accrued vacation leave plus up to 60 days of sick leave on record shall be paid to the employee's spouse or designated retirement beneficiary.

(d) **Retirement.** All unused-accrued vacation leave, plus up to 71 days of sick leave on record, shall be paid to any employee who retires from the City's employ and has applied for and received authorization for retirement benefits through any of the City's retirement plans. The City will not make any payments for compensatory time off

accrued but not taken. Their collective bargaining agreement shall govern Department Heads. Those Department Heads not covered by a CBA shall receive the same benefits as outlines in the Teamster Contract the purposes of resignation, retirement or death benefits.

(e) **Extension of Benefits.** According to Federal Law, any employee subject to separation under a, b, and c is entitled to receive extended health benefits as per COBRA Law, at the group rate premium and at their own expense. Arrangements must be made with the Comptroller at least thirty (30) days prior to separation.

(f) Employees having a minimum of ten (10) years of service with the City and who have attained the age of sixty-two (62) upon retirement will have paid Health Insurance until their 65<sup>th</sup> birthday. This applies to the employee only. Spouses and/or dependents may be carried on the Group, at their own expenses. Employees upon attaining the age of sixty-five (65) may remain on the City's Group Health Insurance at their own expense. Employees under age sixty-five (65) and with less than ten (10) years of service will be covered per COBRA Law only.

(g) A deceased retiree's spouse and/or dependents may continue with the City's Health Insurance Program, at their own expense until such time as they terminate their participation in the Health Plan.

(h) The above shall be subject to any applicable collective bargaining agreement and its specific language.

#### **44. PART-TIME EMPLOYEES -- BENEFITS.**

Regular, part-time employees working at least 20 hours per week may receive benefits under this Personnel Policy as follows:

(a) The amount of benefit paid is based on the number of days worked per week on a regular basis using a prorated benefit computation system.

(b) **Vacations.** Section 17:137 (f) "vacations" table applies. Vacation time allowed per week is based upon and equals the number of part-time days worked per week.

(c) **Sick Leave/Holidays/Funeral Leave.** Benefit is prorated on the fraction of week worked, using five (5) for the denominator.

(d) **Blue Cross-Blue Shield/Group Insurance.** Eligibility to participate in these benefits is based upon a thirty-five (35) hour minimum work week.

**45. PENSION PLAN.**

The pension plan for municipal employees is under the New Hampshire Retirement System Group I Employees, in accordance with the laws of the State of New Hampshire. A summary of this plan is available to employees upon request. Those employees who continue to remain with the New England Mutual Life Insurance pension plan may request a summary of this plan through the Finance Office.

**46. DEPARTMENT RULES AND REGULATIONS.**

Any department to which the provisions of this Policy applies may adopt rules for the operation of the department and the conduct of employees, provided those rules do not conflict with any of the provisions of this Policy and are approved by the City Manager.

**47. LIMITATIONS OF BENEFITS.**

All employees covered by these Personnel Policies who go on non-work related injury, disability or maternity leave will not be able to receive in excess of 100% of their regular weekly wages/salary by collecting sick leave or vacation leave in conjunction with other City provided insurances.

**48. EMPLOYEE APPEALS REVIEW PROCESS.**

The City Manager may convene an appeals board consisting of two Department Heads and two non-supervisory personnel who shall act in the capacity of an appeals board. The Manager shall sit with the board as a fifth member but shall not act as the chairperson. The board shall conduct the necessary hearing taking evidence of facts and applying the personnel policy. Their findings and conclusions shall be recommended to the City Manager who will make the final determination.

**49. INDEMNIFICATION.**

Employees shall be indemnified for damages as per RSA 31:105, the City Council's Resolution of April 20, 1987 and any subsequent resolutions, ordinances or law, providing said employee did not willfully commit malfeasance and was acting within the scope of their job description.

**REVISED & ADOPTED  
SEPTEMBER 18, 1995 – REVISED 1/28/2019**

## **ADDENDUM 1**

### **HIRING PROCEDURES AND PRACTICES City of Berlin, New Hampshire**

#### **Purpose:**

To consolidate and commit into written form, the hiring procedures and practices of the City of Berlin and to assure full compliance with the American's with Disabilities Act and the regulations as developed by the Equal Employment Opportunity Commission.

#### **General Practice:**

Upon notification to the City Manager's Office that a vacancy exists, whether it be full-time or part-time or temporary, the appropriate department is to review and/or prepare the job description for the vacancy, utilizing the existing job description as a basis of start and listing all of the essential skills needed to accomplish the job.

#### **Posting and Advertising:**

Upon complete redrafting of the job description, the position vacancy should have a one (1) week posting "in-house" for all current employee benefits. If there is an unsatisfactory response from this posting then a notification is placed with the local newspaper(s), at least once, to notify the public that applications are available for said position. In most cases, at least five (5) working days must be available for applicants to respond from the date the notice is actually published, for public benefit, to the closing date. It is not required that applications be picked up or returned to the City Manager's Office and the advertisement may state where applications are available. The Department Head involved with the City Manager's Office, however, will coordinate in these matters.

Upon closing of the acceptance of applications, there may be a number of people who attempt to apply after the fact. While this is most difficult when we are dealing with many of our local citizens, in order to maintain the integrity of the hiring process, it is imperative that they be informed that their application will not be considered since it arrived beyond the dates so advertised. It is their choice whether they want to leave the application with the department or take it with them. If it is left, a note stating "NON-VALID" is to be placed on the top of their application, the actual date received and initialed by the applicant if at all possible.

If in the round of hiring none of the original, timely applicants are deemed to be acceptable and the re-advertising process is opened, only then can the invalid applications be considered. Generally speaking, the Department Head will then review those valid applications utilizing the job description and the main criteria for skills and abilities as well as any desired experience, the applications will be ranked in order with the people who are most qualified to the people who are least qualified.

There are positions that require testing. Generally, Police, Fire, Secretarial, and Clerical will all require some form of testing. In that case, all that applied, prior to the posted deadline, are eligible for the examination. If an examination is to be part of the hiring process, for that specific department, then the advertisement indicating the vacancy must also specify the date and the time of the test and its location. Again, people coming late, or people who missed the exam, for whatever reason, will not be given the opportunity to take a make-up examination if we have properly given notice either by the advertisement and/or personal notification.

Per conclusion of a written examination, the test results shall be scored ranking from highest to lowest of the most possible points to be obtained.

In those departments where other additional steps to the hiring process are required, such as a physical fitness examination and oral boards, as in Police and Fire, then the rankings from the written examinations will be held as a component to the process. The additional steps in the hiring process are part of the notification of vacancy when initially advertised.

Ultimately, a decision based on the steps of the hiring process will yield the most appropriate applicant with the best scores and experience, from highest to lowest. The top three (3) to five (5) candidates should then be chosen for final interview and in those cases where physical or medical examinations are required, which is becoming more of a standard for all of the hirings, any offer of the position is subject to the passage of the medical examination.

Once the decision has been made to offer the positions to the individual applicant or applicants and acceptance has been given by the applicant or applicants, a letter so stating the conditions of employment, date of hire, starting rate, probationary period and after probationary period improvements, if appropriate, and required verification of citizenship, shall be forwarded to the prospective employee with a copy into their personnel file. For those individuals who were not offered the position, a letter shall be forwarded so stating that they were not hired and that their application will be held by the department for a period of six (6) months from the date they applied. Should any vacancies occur in this period, their application will be reviewed. That is not a promise of hire, it is merely a promise to review.

In the case of Police and Fire, where auxiliary or call firemen have made application, they will be given first consideration over other applicants who have not had that direct-current experience, so long as they have met the minimum hiring and testing criteria.

In the case of Public Works, those employees who have worked in the previous twelve (12) months during the summer, or seasonal work crew, will also be given first preference, assuming they meet all other criteria for the position. Generally, those personnel who are part-time, seasonal, or regular with any of the departments, are given first opportunity over outside, non-related employees (the term related not having to do with family, rather related to previous twelve (12) months experience with the City of Berlin), so long as they have met the minimum hiring and testing criteria.

The Personnel Policies are very clear and should guide all Departments Heads when it does come to applicants who have a family relationship to an existing supervisor within that department. Please refer to the Policies accordingly. Ultimately, the Department Head involved should recommend to the City Manager, based upon this process, the applicant or applicants who they want to hire. Once approval is given, follow the procedures as indicated above.

**Notice of Importance:**

Although most Department Heads will agree that we have followed these practices fairly consistently it is important to realize that the hiring practices of the City come under a great deal of scrutiny, especially when an individual who is interested in a position does not complete either the delivery of an application, or the steps in the hiring process, in the specified items. Arguments and accusations often ensue. It is most important to maintain the integrity and the fairness of the hiring process by spelling out in advance these specific steps and the schedules that are being followed.

In most recent incidences, we have been able to maintain the integrity of the hiring practices and process because we have been consistent in following these above procedures. If a Department Head has found that he/she must veer from these practices, the Manager's Office must be immediately notified before any variations will be approved. Remember, hiring comes under Federal Law and is subject to many violations if not properly adhered to.

Ultimately, the whole purpose of committing our hiring practices to writing is that we are all consistent in utilizing them. The City is an equal opportunity and affirmative action employer.

## ADDENDUM II

### DRUG FREE WORKPLACE CERTIFICATION

## STAFF HEALTH AND SAFETY

### Drug-Free Workplace Statement to All Employees of

The City of Berlin provides a drug-free workplace in accordance with the Drug-Free Workplace Act of 1988 and the United States Department of Transportation Regulations and their implementing regulations (see complete plan in the City Manager's Office). The City certifies that it will:

- Notify all employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the City's workplace and specifies the actions that will be taken against employees for violation of such prohibitions.
- Establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the City's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and the penalty that may be imposed on employees for drug abuse violations occurring in the workplace per the City's personnel policy.
- Make it a requirement that each employee whose employment is funded by a federal grant be given a copy of this statement as required.
- Notify the employee in this required statement that as a condition of employment under the grant, the employee will abide by the terms of the statement, and will notify the City of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- Notify the federal agency within ten days after receiving notice from an employee or otherwise receiving notice of such conviction.
- Take one of the following actions within 30 days of receiving notice with respect to any employee who is so convicted: take appropriate personnel action against such an employee, up to and including termination; or require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health law enforcement, or other appropriate agency.
- Make a good faith effort to continue to maintain a drug free workplace through implementation of all the provisions of this policy.