



## Board of Selectmen

Ware Town Hall, Meeting Room, 126 Main Street

Regular Meeting Notice Agenda – Tuesday, November 10, 2020 at 6:30 p.m.

6:30 p.m. Executive Session: M.G.L. Chapter 30A, Section 21 (a) #1 Discussion of Character of Employee

**Instructions for call in option:** at or before 7:00 p.m., call the phone number below and when prompted enter the Meeting ID number. The platform is Zoom Meetings.

Join online: <https://us02web.zoom.us/j/7846041861> (the online option will require a download).

Meeting ID: 784 604 1861

Passcode: 01082

Phone: 929-205-6099

### Meeting Opened

#### Opening Remarks, Announcements, and Agenda review by Chair

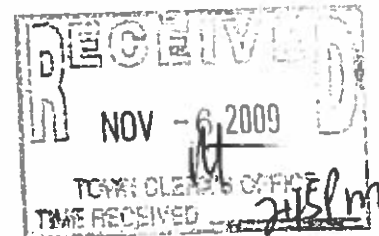
- Announce No Overnight Parking on Town Streets, December 1, 2020 (or first snowfall) – March 31, 2021

#### Consent Agenda

- Approval of Meeting Minutes of October 20, 2020

#### Scheduled Appearances

- Updates:
  - Judy Metcalf, Health Director
  - Dr. DiLeo, Superintendent of Schools
  - Anna Marques, Building Inspector
  - Andy Lalashius, Water Filtration Plant



#### Old Business

- Approval of School COVID bills
- Update on Main Street project
- Update on Palmer Motorsports Park

#### New Business

- Letter from Health Director RE: Forefront Solar
- Set Special Town Meeting Date, Approval of Warrant
- Set Tax Classification Hearing for Tuesday, November 24, 2020
- Policy Presentation, First Packet

#### Comments and Concerns of Citizens

#### Town Manager Report

#### Adjournment

Executive Session: M.G.L. Chapter 30A, Section 21 (a) #2 Conduct Strategy Sessions for Negotiations with Non-Union Personnel, #3 Litigation

## **2020 -2021 WARE PARKING LOT RULES**

**Residents may purchase parking permits for the year. The cost is \$30.00 per vehicle/trailer for the year (\$20 for Veterans). Parking permits are valid December 1, 2020 through November 30, 2021.**

**The rules and regulations listed below address parking between the hours of midnight and 7 a.m. in municipal lots located on Parker Street and Pleasant Street. There is no overnight parking on town streets from December 1 (or the first plowable snowfall) through March 31.**

- 1. Residents wishing to park overnight in Municipal lots shall register their vehicle/trailer with the Town Manager's office.**

**Each vehicle/trailer will receive a municipal parking sticker which must be displayed on the back of the rear view mirror. CALL 413-967-9648 extension 101 for details.**

**Each vehicle/trailer must fit into a single parking space, and must adhere to the Winter Parking Regulations for moving said vehicle/trailer for plowing purposes of Municipal lots.**

- 2. Vehicles/trailers parked overnight in Municipal lots without a sticker will be ticketed and may be towed at the vehicle owner's expense.**
- 3. Vehicles/trailers must be moved from Municipal lots during snow events between 7 a.m. and 10 a.m. Vehicles/trailers in the lots during those hours will be towed at the vehicle owner's expense.**
- 4. All vehicles or trailers shall have an active registration with the MA Registry of Motor Vehicles.**
- 5. Vehicles or trailers shall not be leaking any excess fluids.**
- 6. Vehicles or trailers shall not be left on blocks or other types of stands or any blight issues.**
- 7. Visitors' temporary parking approval can be obtained by contacting the Ware Police Department at 413-967-3571.**
- 8. The Town reserves the right to modify these rules due to public safety needs.**

**The Town of Ware, via the Ware Police Department, reserves the right to remove/tow (at the vehicle/trailer owner's expense) any vehicle or trailer that fails to comply with the above rules and regulations or for any reason seen fit by the Ware Police Department.**



**Board of Selectmen**

**Ware Town Hall, Meeting Room, 126 Main Street**

**Regular Meeting Minutes – Tuesday, October 20, 2020 at 7:00 p.m.**

**Instructions for call in option:** at or before 7:00 p.m., call the phone number below and when prompted enter the Meeting ID number. The platform is Zoom Meetings.

**Join online:** <https://us02web.zoom.us/j/7846041861> (the online option will require a download).

**Meeting ID: 784 604 1861**

**Passcode: 01082**

**Phone: 929-205-6099**

**Present at Town Hall:** Selectman Alan G. Whitney, Selectman Keith J. Kruckas, Selectman Thomas H. Barnes, Selectman Nancy J. Talbot, Selectman John J. Morrin, Town Manager Stuart B. Beckley, Clerk Mary L. Midura, Town Planner Rebekah Cornell, Fire Chief Chris Gagnon, Police Chief Shawn Crevier

**Present via Zoom:** Hardwick Selectmen Kenan Young and Julie Quink, Ware Treasurer Erica Brunell, Resident Kim Mongeau, Ware River News Editor Eileen Kennedy

**Absent: None**

**Meeting Opened by Chairman Whitney**

**Opening Remarks, Announcements, and Agenda review by Chair**

Selectman Talbot noted some residents have received a call that tells voters that voting is at Park Street or Park Ave. – this is incorrect. The Town Clerk's webpage on the Town website has the correct information. Early voting is at the Senior Center until October 30.

Selectman Barnes thanked police and teachers for their work. He thanked Mrs. Talbot for the work on Early Voting. Chairman Whitney agreed. Selectman Talbot noted all Town Clerks in the Commonwealth are doing this same work.

Selectman Kruckas questioned the Main Street Project progress, noting that Ludlow Construction is active in Belchertown but not here. He stated this is unacceptable, affecting businesses that are already struggling. Mr. Beckley noted that Mass DOT identified a sidewalk conduit to be reinstalled by National Grid by November 1. If weather is a factor, asphalt will be placed. Chairman Whitney asked to revisit this on November 10, and if not done, requested a representative from the project be at the meeting.

Selectman Kruckas requested the Building Inspector be present at the November 10 meeting; he has received calls regarding permit delays. He noted there are ongoing projects and he has numerous questions.

Selectman Morrin noted he voted last Saturday. Chairman Whitney and Selectman Morrin suggested there should be "I Voted" stickers for voters.

**Consent Agenda**

- **Approval of Meeting Minutes of September 22 and October 6, 2020**

**Selectman Barnes made the motion to approve the meeting minutes. Selectman Talbot seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Abstention (Selectman Kruckas).**

## **Scheduled Appearances**

- **Ambulance Contract: Fire Chief Gagnon, Hardwick Select Board**

Hardwick Board of Selectmen Kenan Young and Julie Quink joined the meeting via Zoom. Fire Chief Gagnon was present. He noted a memo of August 13, 2020 in which he was tasked by the Board of Selectmen to look at all costs which are itemized for utilization of the ambulance done to daily and hourly cost. In the last year, we have gone to Hardwick 271 times, which is 19.1% of total call volume. Based on the primary vehicle, 85% of runs are for EMS. This memo compiles all operational costs for a total of \$700,407, with Hardwick at 19%. This is contrasted on the second page with Federal government program allowing for \$40.50 per hour, not including 2 staff. The Fire Department billed out \$106,000, total receipts \$90,000. Chief Gagnon noted the importance to cover community, we are not losing money, and his recommendation is to continue the one year contract. He noted the continuing changes in town, such as the new facility on South Street. He noted the department is short one position, with two new hires shortly.

Selectman Kruckas questioned if there is a call to Hardwick, would the Town be billed if Barre or West Brookfield responded first. Chief Gagnon noted that Ware responds to all Hardwick calls.

Selectman Barnes questioned why paramedic ALS is used, as it is more expensive. Chief Gagnon noted that Palmer and Belchertown also use paramedic.

Chairman Whitney questioned what is cost to Hardwick; Chief Gagnon confirmed \$77,000 this year. His priority is Ware, but he noted he will look at this proactively to continue coverage and find solutions.

Selectman Talbot asked about the interview for two positions; Chief Gagnon noted a shift has 2 staff on duty, and with coverage there will still be overtime at times. His staff has been incredibly hit, and one of his goals is to take care of staff.

Selectman Talbot noted that rates are set by region, and asked if the Chief is confident with rates as they currently are. Chief Gagnon noted his review is 95% complete, but he believes overall rates from 2017 need to be updated as the contract not changed, 8-9% non- contracted is about \$21,000.

Selectman Kruckas questioned retroactive for year of \$77,000, Hardwick get prices from Town of Ware to June 2021, with \$133,000 up front going forward.

Chairman Whitney questioned if there were an increase to staff since Hardwick was added? Chief Gagnon stated there has been no increase, but we do need to increase staff. For example, the South Street facility is now at 25% capacity.

Selectman Young of Board of Selectmen of Hardwick reiterated that cost this year will remain@ \$77,000, through June 2021.

Mr. Beckley asked the Board if the Chief should revisit; Chairman Whitney confirmed Chief should revisit in 90 days, with updated and yearly costs. Mr. Beckley noted that if Hardwick makes another deal, these costs do not go away from the Town budget, even if there is loss of receipts.

Selectman Kruckas noted that the Town should focus on residents first.

Hardwick Selectman Julie Quink noted that both towns have benefitted, and Hardwick made cuts to the town budget for public safety, police, fire, highway personnel.

Chairman Whitney requested updated costs in 120 days. Hardwick Selectman Julie Quink noted the 90 day out in contract.

**Selectman Kruckas made the motion to continue the Hardwick Ambulance Agreement at \$77,000 for FY21, increased to \$133,000 for FY22, with contract language to remain the same. Selectman Barnes seconded the motion. The motion passed on a vote of 5 Yes, 0 No.**

Selectman Kruckas questioned why the person in the back of the room (Town Planner Rebekah Cornell) was again knitting at the meeting. He stated it was distracting and he has had complaints from citizens. Ms. Cornell stated this was a personal attack that should be discussed in Executive Session. Selectman Kruckas replied, "You can go out in the hallway." Chairman Whitney stated this was not the way the Board would approach this, and it will be taken up in Executive Session.

## Old Business

- **Approval of School COVID bills**

Selectman Morrin requested an explanation of how the decision was made, why did the School Committee not ask for a vote by the Board of Selectmen. He questioned bills from a company out of country. He stated the school committee needs to spend tax dollars wisely.

Selectman Talbot made the motion to Table to November 10, 2020. Selectman Morrin seconded the motion. The motion passed on a vote of 5 Yes, 0 No.

- **Project Manager for Water Treatment Facility, Forum Follow Up**

Selectman Barnes made the motion to appoint Andrew Lalashius as the Project Manager contact for Water Treatment Facility. Selectman Talbot seconded the motion. The motion passed on a vote of 5 Yes, 0 No.

The Board requested that Mr. Lalashius attend the November 10 meeting and the November 12 Public Forum.

- **Solar Projects Update**

Chairman Whitney requested the letter from Health Director Judy Metcalf regarding Forefront Solar to be added to the November 10, 2020 agenda. He also requested the list be updated monthly with changes in red or bold.

## New Business

- **Request to Lower Speed Limit on Beaver Lake Road to 20 MPH, Create Safety Zone**

Police Chief Crevier was present. Mrs. Elaine Murphy, Beaver Lake Road resident, joined the meeting via Zoom. Chief Crevier noted MGL Chapter 90, Section 18B allows creation of a Safety Zone and reduction to 20 MPH. Mrs. Murphy questioned what steps are to be taken to make the street a one-way. Chairman Whitney stated that time should be given at the new speed limit, and if no improvement is noted, to have a public hearing regarding the request to make the street one-way. The Board will send an invite in Spring 2021 to review. Mrs. Murphy requested this not go into the summer season, as that is the busiest time at that beach.

Selectman Barnes made the motion to approve the Police Request to Lower Speed Limit on Beaver Lake Road to 20 MPH and to Create a Safety Zone. Selectman Morrin seconded the motion. The motion passed on a vote of 5 Yes, 0 No.

Selectman Barnes noted speeding vehicles on Greenwich Plains Road to Route 9.

- **Approval of CARES Funds, Round 2, Requests**

Mr. Beckley presented the chart with details of the CARES Funds requests.

Selectman Kruckas made the motion to approve the CARES Funds, Round 2 Requests. Selectman Barnes seconded the motion. The motion passed on a vote of 5 Yes, 0 No.

- **Open Special Town Meeting Warrant**

Selectman Talbot made the motion to Open the Special Town Meeting Warrant, to Close at noon on November 5, 2020. Selectman Morrin seconded the motion. The motion passed on a vote of 5 Yes, 0 No.

- **Proposed Zoning Amendments**

**Selectman Talbot made the motion to Send the Proposed Zoning Amendments to the Planning Board for Process. Selectman Barnes seconded the motion. The motion passed on a vote of 5 Yes, 0 No.**

### **Comments and Concerns of Citizens**

Kim Mongeau questioned the ambulance contract and extra pay; Mr. Beckley noted stipend is built into base as part of agreement. Ms. Mongeau also noted animals in the road on Church Street, requested Board contact Land Trust regarding this.

Selectman Kruckas questioned the status of old Otto's building, noted race track complaints, suggested letter to race track. Mr. Beckley noted that Palmer Town Manager will send an update, and our town attorney will give opinion. Selectman Kruckas asked about cleanup of Aspen Street property; Mr. Beckley noted neighborhood cleanup.

Selectman Barnes questioned progress of Old Belchertown Road bridge; Mr. Beckley noted this should be completed by November 1, 2020.

### **Town Manager Report**

Upcoming meetings:

November 12. Town Hall, USDA Water Treatment Plant public forum 2

Main Street. There is a meeting on Tuesday morning for updates from MassDOT and National Grid. Will be able to present an update at the meeting.

Water flushing should be complete early in the fourth week of October. Zone 6 (of 7) work commences on Monday, October 19.

Attached is a list of policies being reviewed, edited, and created by Human Resource Coordinator Trish Barnes. The highlighted policies are those that are existing and being updated first.

The State has certified the Town's Free Cash (available funds) for the General and Enterprise Funds. The email notice and the accompanying summaries are attached. The negative value for the Sewer Enterprise fund will need to be addressed at Town Meeting. Strong calculations to the Town's financial team – Treasurer, Tax Collector, Town Accountant and Town Clerk – for their efforts toward efficient spending and revenue generation.

The latest Cherry Sheet reflecting the Governor's revised budget is attached. This reflects anticipated level funding of State aid and The State budget still has to go through the House and Senate and a joint budget committee before final approval. The State budget timing may affect the ability to hold Town Meeting and set a tax rate.

The number of complaints being received regarding the Palmer Motor Sports track noise is on the rise this fall. The Town of Palmer is aware, but I will be checking on the status of the lawsuit and adherence to COVID restrictions with Palmer officials.

The Fire Chief held interviews for two open firefighter positions. Two candidates were chosen from the civil service list and are undergoing preliminary qualification requirements.

## Adjournment

### Executive Session: M.G.L. Chapter 30A, Section 21 (a) #2 Conduct Strategy Sessions for Negotiations with Non-Union Personnel

Selectman Talbot made the motion at 8:33 p.m. to Adjourn the Regular Meeting to go into Executive Session: M.G.L. Chapter 30A, Section 21(a) #2 Conduct Strategy Sessions for Negotiations with Non-Union Personnel, NOT TO RECONVENE IN OPEN SESSION. Selectman Barnes seconded the motion. The motion passed on a roll call vote of 5 Yes, 0 No.

Selectman Alan G. Whitney	Yes✓
Selectman Keith J. Kruckas	Yes✓
Selectman Thomas H. Barnes	Yes✓
Selectman Nancy J. Talbot	Yes✓
Selectman John J. Morrin	Yes✓

Attest:

Mary L. Midura, Executive Assistant to  
Town Manager



Office of  
**QUABBIN HEALTH DISTRICT**  
126 Main Street

Ware, Massachusetts 01082

Telephone: (413) 967-9615

Facsimile: (413) 967-9646

*Serving the Communities of Belchertown, Ware, and Pelham, MA*



Judy Metcalf, R.S., C.H.O.  
Director of Public Health

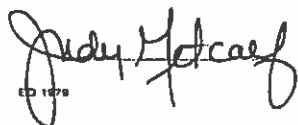
**MEMO**

**To:** Ed Switzer, Forefront  
Stuart, Beckley, Ware Town Manger  
**CC:** Alan Whitney, Chair, Ware Board of Selectmen  
**From:** Judy Metcalf, RS., CHO  
**Date:** October 19, 2020  
**RE:** Robbins Road landfill repairs

Per our remote meeting held on October 8, 2020, the following course of action was agreed upon:

1. Forefront will move forward with their engineering firm TRC from Maine to develop the required BWP SW 45 Permit and plan for minor modification to repair the cover and drainage.
2. BWP SW 45 must be submitted to both DEP and the Ware Board of Health for review and approval before work can begin. No work shall occur without a valid permit approval.
3. The contractor Forefront hires to perform the work according to the approved permit must complete all work satisfactorily and comply with all conditions lists. Additionally, the contractor shall be acceptable to the Town of Ware and hold all necessary insurance and or bonding as required from the Town.
4. Because of the lateness with regards to construction season and growing season, Forefront requests and extension to May 31, 2021 to obtain permits and complete repairs.

Therefore, it is my recommendation to the Ware Board of Selectmen that they continue with a monthly temporary extension with Forefront for the lease of the land until May 31, 2021. At that time, if work is completed to the satisfaction of DEP and Board of Health, the Board of Selectmen and Town Manager can resume negotiations with Forefront to enter into a formalized annual or longer lease.

  
ED 1079





**TOWN OF WARE**  
Office of the Town Manager  
Ware, Massachusetts 01082  
413-967-9648 x100

To : Select Board

From : Stuart Beckley, Town Manager

Attached is a proposed warrant for Special Town Meeting. The suggested date is November 30, 2020 at 6:30 p.m.

Thank you.



**WARRANT FOR SPECIAL TOWN MEETING  
TOWN OF WARE  
COMMONWEALTH OF MASSACHUSETTS**

*Hampshire, ss.*

To any of the Constables of the Town of Ware, in said County,

Greetings:

**In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn all of the inhabitants of the Town of Ware, Precincts A, B and C, qualified to vote on Town affairs, to meet at the Ware High School, , Ware, on Monday, November 30, 2020 at six thirty in the evening (6:30 P.M.), then and there to act on the following articles:**

- Article 1.** To see if the town will vote to appropriate a sum of money to pay unpaid bills from prior fiscal years, and to determine the manner of meeting said appropriation, whether by taxation, transfer of available funds, borrowing or any other means or any combination thereof, or take any other action relative thereto.
- Article 2.** To see if the Town will vote to appropriate a sum of money for amendments to the Fiscal Year 2020 budget, and to determine the manner of meeting said appropriation, whether by taxation, transfer of available funds, borrowing or any other means or any combination thereof, or take any other action relative thereto.
- Article 3.** To see if the Town will vote to appropriate a sum of money for amendments to the Fiscal Year 2020 Sewer Enterprise budget, and to determine the manner of meeting said appropriation, whether by taxation, transfer of available funds, borrowing or any other means or any combination thereof, or take any other action relative thereto.
- Article 4.** To see if the Town will vote to appropriate a sum of money to fund the Other Post-Employment Benefits (OPEB) Liability Trust Fund and to determine the manner of meeting said appropriation whether by taxation, transfer of available funds, borrowing or any other means or any combination thereof; or take another action relative thereto.
- Article 5.** To see if the Town will vote to appropriate a sum of money for the Stabilization Fund, and to determine the manner of meeting said appropriation whether by taxation, transfer of available funds, or any other means or any combination thereof or take any other action relative thereto.

- Article 6.** To see if the Town will vote to appropriate a sum of money for the Capital Stabilization Fund, and to determine the manner of meeting said appropriation whether by taxation, transfer of available funds, or any other means or any combination thereof or take any other action relative thereto.
- Article 7** To see if the Town will accept Massachusetts General Law Chapter 200A, Section 9A, or take any other action relative thereto.
- Article 8** To see if the Town will vote to amend the Zoning Bylaw by amending or adding to Section , Definitions as presented at a Public Hearing on November 19, 2020 and available at the Town Hall and on the Town's website; or to take any action related thereto.
- Article 9.** To see if the town will vote to appropriate a sum of money to fund the operations of the local and regional transportation service, the Quaboag Connector, and to determine the manner of meeting said appropriation, whether by taxation, transfer of available funds, borrowing or any other means or any combination thereof, or take any other action relative thereto.
- Article 10.** To see if the Town will vote to raise and appropriate a sum of money for the support of veterans through the Brookfield Institute Care for the Troops program, or to take any action related thereto
- Article 11** To see if the Town will vote to appropriate a sum of money for an integrated financial software package and to determine the manner of meeting said appropriation whether by taxation, transfer of available funds, or any other means or any combination thereof, or take any other action relative thereto.
- Article 12** To see if the Town will vote to raise and appropriate a sum of money to purchase a four-wheel drive water service truck with utility body for the Water Division of the Department of Public Works and to determine the manner of meeting said appropriation, whether by taxation, transfer from available funds, borrowing, or any other means, or combination thereof, or take any other action relative thereto.
- Article 13** To see if the Town will vote to raise and appropriate a sum of money to purchase a water gate valve operator and telescopic valve key for the Water Division of the Department of Public Works to determine the manner of meeting said appropriation, whether by taxation, transfer from available funds, borrowing, or any other means, or combination thereof, or take any other action relative thereto.

- Article 14** To see if the Town will vote to raise and appropriate a sum of money to be purchase an air compressor for the Water Division of the Department of Public Works and to determine the manner of meeting said appropriation, whether by taxation, transfer from available funds, borrowing, or any other means, or combination thereof, or take any other action relative thereto.
- Article 15** To see if the Town will vote to raise and appropriate a sum of money to purchase a replacement remote water meter data collector, to upgrade the data conversion computer software program and to purchase additional water meters and to determine the manner of meeting said appropriation, whether by taxation, transfer from available funds, borrowing, or any other means, or combination thereof, or take any other action relative thereto.
- Article 16** To see if the Town will vote to raise and appropriate a sum of money for the purchase of a front loader tractor with backhoe for the School Department and to determine the manner of meeting said appropriation, whether by taxation, transfer from available funds, borrowing, or any other means, or combination thereof, or take any other action relative thereto.
- Article 17** To see if the Town will vote to raise and appropriate a sum of money for the purchase of a pickup truck for the School Department and to determine the manner of meeting said appropriation, whether by taxation, transfer from available funds, borrowing, or any other means, or combination thereof, or take any other action relative thereto.
- Article 18** To see if the Town will vote to raise and appropriate a sum of money to fund a truck for the Parks Department, and to determine the manner of meeting said appropriation whether by taxation, transfer of available funds, borrowing or any other means or any combination thereof; or take another action relative thereto.
- Article 19** To see if the Town will vote to raise and appropriate a sum of money to be expended for the purchase and equipment of a vehicle for the Police Department, and to determine the manner of meeting said appropriation, whether by taxation, transfer from available funds, borrowing, or any other means, or combination thereof, or take any other action relative thereto.
- Article 20** To see if the Town will vote to raise and appropriate a sum of money to be purchase a payloader for the Department of Public Works and to determine the manner of meeting said appropriation, whether by taxation, transfer from available funds, borrowing, or any other means, or combination thereof, or take any other action relative thereto.
- Article 21** To see if the Town will vote to raise and appropriate a sum of money to be purchase a dump truck and snowplow for the Department of Public Works and to determine the manner of meeting said appropriation, whether by

taxation, transfer from available funds, borrowing, or any other means, or combination thereof, or take any other action relative thereto.

**Article 22.** To see if the Town will vote to raise and appropriate a sum of money for the purchase and outfitting of a firetruck for the Fire Department and to determine the manner of meeting said appropriation whether by taxation, transfer of available funds, borrowing or any other means or any combination thereof or take any other action relative thereto.

**Article 23** To see if the Town will vote to raise and appropriate a sum of money to dispose of wood and brush stored at the former Banas farm on Robbins Road and to determine the manner of meeting said appropriation, whether by taxation, transfer from available funds, borrowing, or any other means, or combination thereof, or take any other action relative thereto.

**Article 24** To see if the Town will vote to raise and appropriate a sum of money for the removal and disposal of hazardous public shade trees and to determine the manner of meeting said appropriation, whether by taxation, transfer from available funds, borrowing, or any other means, or combination thereof, or take any other action relative thereto.

**Article 25???** To see if the Town will vote to raise and appropriate a sum of money to remove the nuisance and danger of the building located at 114 Main Street in accordance with MGL Chapter 139, Section or other applicable laws, including legal and engineering fees, and to determine the manner of meeting said appropriation, whether by taxation, transfer from available funds, borrowing, grants, state funds or any other means, or combination thereof, or take any other action relative thereto.

And you are directed to serve up this Warrant by posting attested copies thereof at the Town Hall, at the Post Office calling the same at least fourteen (14) days before the time of said meeting and also by publishing a copy of the warrant on the Town of Ware website at least fourteen days before said meeting and make due return of this Warrant with doings thereon, to the Town Clerk of Ware on or before the time of said meeting.

Given under our hands at Ware this 10<sup>th</sup> day of November 2020.

SELECT BOARD OF WARE:

\_\_\_\_\_  
Alan Whitney, Chair

\_\_\_\_\_  
Keith Kruckas, Vice Chair

\_\_\_\_\_  
Thomas Barnes

\_\_\_\_\_  
Nancy Talbot

\_\_\_\_\_  
John Morrin

*Hampshire, ss.*

By virtue of this Warrant, I have posted two attested copies: one at the Post Office, one at the Town Hall. I have also caused to be posted one attested copy on the Town of Ware website.

Signed this \_\_\_\_\_ Day November, 2020.

\_\_\_\_\_  
Constable of Ware, Massachusetts



**TOWN OF WARE**  
Office of the Town Manager  
Ware, Massachusetts 01082  
413-967-9648 x100

To : Select Board

From : Stuart Beckley, Town Manager *SB*

Attached are a first round of policies created and/or edited by the HR Director Trish Barnes. These are statutorily mandated policies. Please review and let us know of any needed changes.

A second round of policies – local – will be completed for the November 24 meeting.

Thank you.

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## 1.1 Americans with Disabilities Act (ADA) and the ADA Amendments Act (ADAAA), MA Disability Law

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It is the policy of the Town of Ware to comply with all the relevant and applicable provisions of the federal Americans with Disabilities Act (ADA) and Pregnancy Discrimination Act (PDA), as well as state and local laws concerning the hiring and employment of individuals with temporary and ongoing disabilities. Pregnant workers may also have impairments related to their pregnancies that qualify under the ADA. The Company will not discriminate against any qualified employee or job applicant because of a person's physical or mental disability with respect to any terms, privileges or conditions of employment, including, but not limited to hiring, advancement, discharge, compensation and training.

The Town is committed to providing reasonable accommodations for all qualified individuals with disabilities who are current employees or applicants for employment. Human Resources is the designated office that obtains and files disability-related and medical documents, certifies eligibility for services, and develops plans for provision of such accommodations for all employees and applicants for employment at the Town.

**Reasonable Accommodation Defined:** A reasonable accommodation is an alteration or modification of the job, an employment practice, or work environment that allows an individual with a disability to enjoy an equal employment opportunity, without imposing an undue hardship upon the Town. Every reasonable accommodation determination will be made on an individual basis, based on the specific abilities and functional limitations of a particular employee or applicant with a disability and the specific functional requirements of a particular job. A disability is defined as a physical, mental, or medical condition or impairment that is demonstrable by medically accepted clinical or laboratory diagnostic techniques; a record of such impairment; or being regarded as having such an impairment. Undue Hardship is defined as an action requiring significant difficulty or expense by the employer. What constitutes an undue hardship is determined on a case-by-case basis taking into account, among other factors, the nature and cost of the accommodation in relation to the size, resources, nature, and structure of the Town's operation and the impact of the accommodation on the Town's operation.

**Essential Functions** are the basic job duties that an employee must be able to perform, with or without a reasonable accommodation. At the Town, the essential functions of the position are identified in the Job Description.

**Procedure Requests for Accommodations:** All employees or applicants for employment requesting an accommodation should contact Human Resources. Human Resources will maintain all communications and related documentation regarding accommodations as confidential, sharing on a need to know basis as necessary to evaluate or arrange such accommodations. Information provided shall not be used as criteria in making a future employment decision.

The Town Manager is responsible for addressing any concerns and investigating complaints of non-compliance with approved disability-related accommodations.

## 1.2 COBRA - Consolidated Omnibus Budget Reconciliation Act

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The Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives The Town of Ware employees and their qualified beneficiaries the opportunity to continue benefit coverage under the employer's medical plans, dental plans, vision plan, and flexible spending accounts when a "qualifying event" would normally result in the loss of eligibility.

The Benefits Coordinator will provide each eligible employee with a written notice describing rights granted under COBRA when notified of a qualifying event. The notice contains important information about the cost, rights and obligations of the employee and/or beneficiaries. Failure to timely comply with the notice may result in a loss of insurance coverage.

### Qualifying Events

Following are common examples of qualifying events:

- Termination of employment
- Death of the employee
- Reduction in work hours
- Divorce
- Retirement (if not eligible for retiree medical insurance)
- Loss of eligibility by a dependent child

### Length of Coverage

Coverage may continue for differing lengths of time depending upon the reason for eligibility. The time limitations are:

- Up to 18 months if loss of coverage is due to termination of employment or reduction in work hours
- Up to 36 months for dependents if loss of coverage is due to death, divorce, or a dependent child's loss of eligibility
- Up to 29 months if the individual is disabled at the time of eligibility for continued coverage or is disabled within 60 days of eligibility for continued coverage

### Cost of Coverage

Under extended coverage, the eligible individual pays full cost of coverage at the employer's group rate plus a 2% administrative fee.

**Termination of Continued Coverage**

Continued coverage may terminate if:

- The individual becomes covered by another group plan (including Medicare),
- The individual fails to pay the required premium within the established grace period, or
- The employer no longer offers the plan(s) to its active employees.

**Employee Responsibility**

The Town of Ware makes every effort to comply with the guidelines regarding an employee's and qualified dependent's rights under COBRA. Under certain circumstances such as divorce and dependent eligibility, it is the employee's responsibility to advise the Benefits Coordinator so the extended coverage may be offered to the employee's dependents. It is imperative that each employee keep Human Resources informed of the status of his/her family life, address changes, and age of dependents.

## 1.3 Conflict of Interest Law

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The purpose of this policy is to ensure that Town employees and officials comply with the requirements of M.G.L. Ch 268A, which governs conduct as a public official or public employee. It is the policy of the Town to require compliance with the provisions of this law, as outlined below.

This policy applies to all employees of the Town of Ware (excluding those employees under the supervision and control of the School Committee) vendors, contractors, officials and members of the municipal community. A Summary of the Law is provided to each employee at hire and then annually.

Town employees and officials may not:

1. Ask for or accept anything (regardless of its value) if it is offered in exchange for you agreeing to perform or not perform an official act.
2. Ask for or accept anything worth \$50 or more from anyone with whom you have official dealings. Examples of regulated gifts include: sports tickets, costs of drinks and meals, travel expenses, conference fees, gifts of appreciation, entertainment expenses, free use of vacation homes, and complimentary tickets to charitable events. If a prohibited gift is offered: you may refuse or return it; you may donate it to a non-profit organization provided you do not take the tax write-off; you may pay the giver the full value of the gift; or, in the case of certain types of gifts, it may be considered "a gift to your public employer," provided it remains in the office and does not ever go home with you. You may not accept honoraria for a speech that is in any way related to your official duties, unless you are a state legislator.
3. Hire, promote, supervise or otherwise participate in the employment of your immediate family or your spouse's immediate family.
4. Take any type of official action which will affect the financial interests of your immediate family or your spouse's immediate family. For instance, you may not participate in licensing or inspection processes involving a family member's business.
5. Take any official action affecting your own financial interest, or the financial interest of a business partner, private employer, or any organization for which you serve as an officer, director, or trustee. For instance: you may not take any official action regarding an "after hours" employer, or its geographic competitors; you may not participate in licensing, inspection, zoning, or other issues that affect a company you own, or its competitors; if you serve on the Board of a non-profit organization, you may not take any official action which would impact that organization or its competitors.
6. Have more than one job with the same municipality or county or more than one job with the state, unless you qualify for an exemption.
7. Have a financial interest in a contract with your public employer except under special circumstances. For instance: if you are a Town employee, a company you own may not be a vendor to that Town unless you meet specific criteria, the contract is awarded by a bid process, and you publicly disclose your financial interest.
8. Represent anyone but your public employer in any matter in which your public employer has an interest. For instance, you may not contact other government agencies on behalf of a company, an association, a friend, or even a charitable organization.
9. Ever disclose confidential information, data, or material which you gained or learned as a public employee.

10. Take any action that could create an appearance of impropriety or could cause an impartial observer to believe your official actions are tainted with bias or favoritism, unless you make a proper, public disclosure.
11. Use your official position to obtain unwarranted privileges, or any type of special treatment, for yourself or anyone else. For instance, you may not approach your subordinates, vendors whose contracts you oversee, or people who are subject to you officially to propose private business dealings.
12. Use public resources for political or private purposes. Examples of "public resources" include: computers, phones, fax machines, postage machines, copiers, cars, staff time, sick time, uniforms, and official seals.
13. After leaving public service, take a job involving public contracting or any other particular matter in which you participated as a public employee.

### **Mandatory Training**

All employees and officials shall participate and comply with the required training provisions of M.G.L. Ch. 268A. A link to the online training will be provided to employees at hire and is available in the Human Resources office and from the Town Clerk.

Existing employees are required to complete the training every two (2) years, as well as receive a copy of the "Conflict of Interest Law Summary" annually. The Town Clerk will notify employees when they are required to re-test and will provide the annual summaries.

## 1.4 Domestic Violence Act – Employment Leave Policy

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The Town of Ware is committed to the health and safety of our employees and their families. Should an employee or their family member be a victim of domestic violence or abusive behavior, they are encouraged to communicate with the HR Director or the Town Manager about requesting leave. This policy outlines the basic procedures and rights afforded an employee under the Domestic Violence Act, M.G.L. c.149, s.52E.

An employee may take up to a maximum of 15 days of protected leave in a 12-month period, if either the employee or their family member:

- Is the victim of abusive behavior (such as domestic violence, stalking, sexual assault, or kidnapping);
- Is seeking medical attention, counseling, legal or other victim services directly related to the abusive behavior against the employee or family member of the employee.

For purposes of this policy, a family member includes not only legally married spouses but also:

- Persons "in a substantive dating or engagement relationship" AND who reside together;
- Persons having a child in common regardless of whether they have ever married or resided together;
- A parent, step-parent, child, step-child, sibling, grandparent or grandchild; or
- Persons in a guardianship relationship.

Employees must use all available personal, sick, and vacation time before requesting leave under this policy. Leave under this policy will be unpaid. Employees are required to provide advance notice of this leave unless there is an imminent danger to their immediate health and safety (in which case - we must receive notification within 3 workdays that the leave was taken or is being taken for reasons covered by this policy).

Employees must complete a request form and provide documentation evidencing that they or their family member has been a victim of domestic violence or abusive behavior within 30 days of the leave request. Such forms of documentation may include:

- A court issued protective order
- An official document from a court, provider or public agency
- A police report or statement of a victim or witness provided to the police
- Official legal documentation attesting to perpetrator's guilt
- Medical documentation of treatment for the abusive behavior
- A sworn statement from the employee attesting to being a victim of abusive behavior
- A sworn statement from a professional who has assisted the employee or the employee's family, for example, a counselor, a social worker or a member of the clergy.

All information and documentation related to this leave will be kept confidential by the HR Director but only for as long as required to make a determination as to whether the employee is eligible for leave. This information shall not be disclosed except to the extent that disclosure is:

- Requested or consented to, in writing, by the employee;
- Ordered to be released by a court;
- Otherwise required by applicable federal or state law;
- Required by applicable federal or state law;
- Required in the course of an investigation authorized by law enforcement; or
- Necessary to protect the safety of anyone employed at the workplace.

Alleged perpetrators of domestic violence are not entitled to leave under this statute.

Provided that all required documentation has been provided, employment is protected for leave taken under this policy. Upon the employee's return from such leave the employee is entitled to restoration to the employee's original job or to an equivalent position. The HR Director will document and keep track of the use of this leave.

## 1.5 Drug and Alcohol-Free Workplace Policy

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The Town of Ware seeks to ensure a safe, healthy and productive work environment for all employees. Evidence clearly indicates that alcohol and other drug abuse by employee's results in low productivity, high absenteeism, excessive use of medical benefits and a risk to personal safety as well as that of co-workers. In a good faith effort to comply with the Drug Free Workplace Act of 1988, the Town of Ware prohibits the use of alcohol and/or illegal drugs/controlled substances on the Town of Ware premises. It is prohibited for any employee of the Town of Ware to unlawfully manufacture, distribute, dispense, possess, or use controlled substances at the workplace or on other premises while conducting Town of Ware business. Controlled substances are defined for the purposes of this policy as those groups of drugs whose use is limited or prohibited by federal and/or state law.

All reports of drug abuse in the workplace will be investigated promptly and in an impartial and as confidential a manner as possible by the Town of Ware Board of Selectmen, or designee, to ensure appropriate action. Any employee who is found, after an investigation, to have violated the drug-free workplace policy may be required to participate in a drug rehabilitation program and/or may face disciplinary action up to and including termination.

In accordance with 41 USCS – 701-707, the Town of Ware, acting through the Board of Selectmen, will provide a drug free workplace. This drug free workplace policy statement certifies that:

- (a) All employees of the Town of Ware will review and retain a copy of this statement. Employees are hereby notified that unlawful manufacturing, distribution, dispensation, possession or use of a controlled substance is prohibited when in the employment of the Town of Ware. Any employee in violation of the above statement will be subject to disciplinary action, which may include termination.
- (b) The purpose of establishing a drug free workplace is to inform Town employees about:
  - 1. The serious dangers of drug abuse in the workplace.
  - 2. The Town's policy of maintaining a drug free workplace.
  - 3. Available drug counseling, rehabilitation and employee assistance programs.
  - 4. The consequences of employee drug use in the work place (see (a) above)
- (c) As a condition of employment, all employees must abide by the terms of this statement and notify their Department Head or Town Manager within five (5) days of any criminal drug statute conviction of which the actual criminal conduct itself occurred in the workplace.
- (d) The Town of Ware will notify (the appropriate federal granting agency, if any) within ten (10) days after receiving notice of any criminal drug statute conviction as detailed in (d) above.
- (e) The Town of Ware will, within thirty (30) days of receiving any such notice under (d) above, take appropriate personnel action against an employee, which may include disciplinary action up to and including termination; and/or require such employee to participate satisfactorily in an approved drug abuse or assistance program.
- (f) The Town of Ware will make a good faith effort to maintain a drug free workplace through implementation of this policy statement.



### **Commercial Driver's License - CDL**

This policy applies to all employees subject to the regulations of the Federal Highway Administration, Department of Transportation ruling that includes every person who operates a commercial motor vehicle in interstate or intrastate commerce, and is subject to the Commercial Driver's License requirements of Part 383.

All Town of Ware employees that possess a CDL license and are subject to this policy must notify the Town Manager if they receive any traffic/moving motor vehicle conviction in any vehicle, even when the conviction is received in a personal vehicle and/or on personal time.

The Town of Ware reserves the right, within the limits of Federal and State laws, to examine and test any employee for the presence of drugs and/or alcohol. Any information obtained through such examinations may be retained by the Town and is the property of the Town. Testing to determine the presence of alcohol and/or drugs can be performed in any of the following situations:

1. Pre-Employment
2. Post-Accident
3. Random
4. Reasonable Suspicion
5. Return to Duty

If an employee refuses to be tested, he or she cannot continue on the job. Employees are prohibited from switching, tampering with, or adulterating a urine, blood, saliva or breath specimen, or otherwise interfering with the collection and testing process. Such conduct will be viewed as serious misconduct and will result in disciplinary action up to and including termination.

If an employee's test is positive for drugs or alcohol, the Town Manager will determine disciplinary action, up to and including termination of employment. A second positive test will result in immediate termination.

### **DOT Required Return-To-Duty Process**

To return to safety-sensitive duties, the employee must comply with the following Return-to-Duty elements:

1. **Initial Evaluation** – A face-to-face evaluation to be conducted by a DOT qualified Substance Abuse Professional (SAP). (49 CFR Part 40.281(3) *SAPs must meet the qualification training requirements.*
2. **Education/Treatment** – Comply with the SAP's recommendations for required education/treatment.
3. **Follow-Up Evaluation** – After completing education/treatment, the employee must meet with the SAP again.
4. **SAP Report** - Once the SAP determines that the employee has complied with his/her recommendations, the SAP will report to the Town HR Director that they have complied with his/her recommendations and that the employee is now able to submit to the return-to-duty test(s).

5. **Return-to-Duty Testing** – The SAP will designate what testing the employee is to receive (Drug and/or Alcohol). The employee needs to have negative test result(s) to resume safety-sensitive functions. All Return-To-Duty urine drug collections are conducted under direct observation. (49 CFR Part 40.67(l))
6. **Follow-Up Testing** – The SAP will determine a Follow-up testing plan for the employee. This will consist of a minimum of six (6) Follow-up drug and/or alcohol tests that must be conducted within twelve months of their return to safety-sensitive duties. The Follow-up testing plan can last for sixty months. The Follow-up testing plan will be provided to the Town, not the employee. All Follow-up urine drug collections are conducted under direct observation. (49 CFR Part 40.67(l))

## 1.6 The Massachusetts Equal Pay Act

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The Town of Ware will comply with the Massachusetts Equal Pay Act, M.G.L.c. 149, 105A, which prohibits discrimination based on gender in the payment of wages. The town will not pay an employee less than it pays an employee of a different gender performing comparable work. Comparable work is work that requires substantially similar skill, effort, and responsibility, and is performed under similar working conditions.

The law permits differences in pay for comparable work only when based on one or more of the following:

1. A seniority system
2. The geographic location of the jobs
3. Production, sales, or revenue-based systems of pay
4. Job-related differences in education, training, or experience
5. A merit system
6. Difference in travel required by the jobs

In compliance with the Equal Pay Act, Town officials and managers will not ask job applicants how much they have been paid in previous positions until a job offer has been made, which includes compensation. The Town job applications will not include questions regarding what the applicant received for compensation in previous jobs.

The town will not make further employment decisions based on how much a person made at a previous position. Employees are permitted to discuss their own wages with coworkers and will not be retaliated against for exercising their rights under the Equal Pay Act.

Violation complaints can be filed with the Attorney General's Office or the MCAD.

## 1.7 Fair Labor Standards Act

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The Town of Ware will comply with all sections of the Fair Labor Standards Act that apply to municipalities. FLSA is a federal law which establishes minimum wage; payment of wages and overtime pay eligibility, recordkeeping, rules for breaks and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments.

### **Requirements**

The FLSA requires the Town to:

1. Pay all covered non-exempt employees, for all hours worked, at least the Federal minimum wage;
2. Pay at least one and one-half times the non-exempt employees' regular rates of pay for all hours worked over forty (40) in the work week;
3. Comply with the youth employment standards; and
4. Comply with the recordkeeping requirements.
5. Comply with pay rules regarding on-call, training, meetings and travel time as well as rest periods, meals and breaks.

### **Classifications**

**Non-Exempt Employee:** Full, Part time, or Temporary employees who are required to be paid overtime at the rate of time and one half their regular rate of pay for hours worked over 40 in the work week.

**Exempt Employee:** Full, Part time or Temporary employees who are not required by law to be paid overtime in accordance with FLSA. Executives, Department Heads, professional employees, outside sales representatives, and certain employees in administrative positions are typically classified as exempt.

The following Town of Ware classifications can be either non-exempt or exempt. Employees will be informed of their classification upon hire or if their status changes due to a promotion or change in duties.

**Regular Full Time Employee:** An employee who has been hired into an established position that normally requires a 37.5 to 40-hour work week.

**Regular Part Time Employee:** An employee who has been hired into an established position who is scheduled to work 18.75 to 20 or more hours in a work week but less than 37.5 hours per work week.

**Limited Status:** Continuous, year-round employment for less than 50% of the full-time level for a specific job class.

**Temporary Employee:** An employee that has been hired into a position of limited duration for a special project or established position not to exceed twelve (12) months. Each temporary position held by an employee is considered separately in determining the employee's status. If an employee holds a series of consecutive temporary positions, they will be designated as a Temporary Employee.

### ***Overtime Pay***

Employees that are classified as non-exempt will receive compensation for approved overtime work. The overtime rate is calculated at time and one half of the employee's regular rate of pay for all hours worked over 40 in a work week. The Town's work week is Sunday – Saturday. Department Heads will attempt to provide employees with reasonable notice when the need for overtime arises. There may be times, however, when advance notice may not be possible. Under no circumstances is an employee authorized to work overtime without their supervisor's prior approval.

### ***Compensatory Time***

Town Employees may receive compensatory time-off, at a rate of not less than one- and one-half hours for each overtime hour worked, instead of cash overtime pay. FLSA regulations allow Police, Fire, and Emergency Response personnel to accrue up to 480 hours of comp time; all other employees may accrue up to 24 hours. An employee is permitted to use comp time on the date requested unless doing so would "unduly disrupt" the department's operations. Prior approval must be received from the employee's Department Head. All comp time must be used by the end of the fiscal year annually and cannot be carried to the next fiscal year.

### ***Exempt Employee***

The Town complies with the salary basis requirements of the Fair Labor Standards Act (FLSA) and does not make improper deductions from the salaries of exempt employees. Exempt employees are those employed in a bona fide executive, administrative or professional capacity and who are exempt from the FLSA's overtime pay requirements.

### ***Recordkeeping Requirements***

The town will keep the following FLSA required records in the Accounting Department for each non-exempt employee:

1. Employee's full name and social security number
2. Address, including zip code
3. Birthdate
4. Sex
5. Job Title
6. Hours of work and work week parameters
7. Total hours worked each week, including overtime hours
8. Basis on which employee's wages are paid: \$9 per hour, \$440 per week, etc.
9. Regular hourly rate
10. All additions or deductions from the employee's wages
11. Date of payment of wages and the pay period covered by the payment

Non-exempt Employees are required to keep an accurate record of their time worked. This can be done by using a time clock or paper time sheet. Falsifying time records is a violation and subject to discipline up to and including termination of employment.

***Meal Breaks***

Town employees are required to take an unpaid 30-minute meal break if they are required to work more than six (6) hours in a day. Employees will be relieved of all work duties during their meal break. Department Heads will schedule the meal breaks to insure adequate coverage. Meal breaks cannot be used at the beginning or end of a work shift.

## 1.8 Families First Coronavirus Response Act

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On Wednesday, March 18, 2020 President Donald Trump signed into law the “Families First Coronavirus Response Act (FFCRA or Act)”. This Act requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

### **ELIGIBLE EMPLOYEES:**

An employee is entitled to take FFCRA leave, which is related to COVID-19, if the employee is unable to work, including unable to telework.

A part-time employee is eligible for leave based on the number of hours he/she is normally scheduled to work.

### **EMERGENCY PAID LEAVE ACT INFORMATION:**

Employees may receive up to two weeks (80 hours), or a part-time employee’s two-week equivalent, of paid sick leave based on their regular rate of pay, paid at:

- 100%, up to \$511 daily and \$5,110 total, for the following qualifying reasons:
  1. Employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
  2. Employee has been advised by a health care provider to self-quarantine related to COVID-19;
  3. Employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis.
- 2/3, up to \$200 daily and \$2,000 total, for the following qualifying reasons:
  4. Employee is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
  5. Employee is caring for his or her child under the age of 18 whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons.
  6. Employee is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services;

### **EMERGENCY FAMILY MEDICAL LEAVE ACT INFORMATION:**

Employees who have been employed for at least 30 days prior to the bill’s enactment may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave. This will be paid at 2/3, up to \$200 daily and \$10,000 total, for the following reason:

1. Employee is caring for his or her child under the age of 18 whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons.

**PROCESS TO REQUEST TIME:**

If an employee would like to request leave under the Emergency Paid Leave Act and/or the Emergency Medical Leave Act, they should request the *Families First Coronavirus Response Act Leave Request Form* from the Town Manager.

**ADDITIONAL INFORMATION REGARDING PENSIONABLE MONIES:**

For those employees who participate in the Town's Retirement System, sick leave paid to members under the Families First Coronavirus Response Act (FFCRA) are consistent with regular compensation requirements, and retirement contributions should be withheld from payments which invoke the FFCRA.

FFCRA payments of sick leave are to be treated similarly as sick leave payments made to an employee which draw upon the employee's own accrued leave. An employee receiving FFCRA paid sick leave should have no break in service, and should continue to receive credit towards retirement, just as the employee would if using his or her own leave.



## 1.9 Family and Medical Leave Act - FMLA

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The Town of Ware provides leave in accordance with the Federal Family and Medical Leave Act. Eligible employees can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- a. The birth of a child or placement of a child for adoption or foster care;
- b. To bond with a child (leave must be taken within one year of the child's birth or placement);
- c. To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- d. For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- e. For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

An eligible employee who is a covered service member's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the service member with a serious injury or illness.

An employee does not need to use FMLA leave in one block. When it is medically necessary, employees may take leave intermittently. The minimum amount of intermittent time is one hour. Employees are required to use their available accrued paid leave while taking FMLA leave.

While an employee is on FMLA leave, the Town of Ware will continue health insurance coverage as if the employee were not on leave. Employees will need to make prior arrangements to pay their portion of the bi-weekly premium on schedule so there is no loss of coverage.

Upon return from FMLA leave, most employees will be restored to the same job or one similar to it with equivalent pay, benefits, and other employment terms and conditions.

An employee must meet the following criteria in order to be eligible for FMLA leave. The employee must:

- a. Have worked for the Town of Ware for at least 12 months and,
- b. Have at least 1,250 hours of service in the 12 months before taking leave

Employees are required to give their Department Head a 30-days' advance notice of the need for FMLA leave. If it is an emergency and the employee is not able to give the 30-days' notice, the employee must notify their Department Head as soon as possible and follow the Town of Ware absent from work policy.

The HR Manager will administer the leave; process the request, notify the employee of FMLA rights and responsibilities, provide appropriate forms, track the leave, and communicate with the employee while they are on FMLA leave.

Employees must provide enough information so it can be determined if the leave qualifies for FMLA protection. Sufficient information could include:

- 1. information that the employee is or will be unable to perform his or her job functions,
- 2. that a family member cannot perform daily activities, or
- 3. that hospitalization or continuing medical treatment is necessary.

Once the HR Director becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employee will be notified if he or she is eligible for FMLA leave and, if eligible, will receive a notice of their rights and responsibilities. If the employee is not eligible, the HR Director will provide a reason for ineligibility. Employees will be notified in writing by the HR Director if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

Request forms and detailed information regarding FMLA can be obtained from the HR Director or the Town Manager.

## 1.10 Harassment of Individuals in Protected Classes:<sup>1</sup>

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The Town of Ware (the "Town") depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to maintaining a positive and congenial work environment free from harassment. The Town recognizes the right of all individuals to be treated with respect and dignity.

### I. Policy

You are encouraged to see your immediate supervisor with suggestions, questions or problems relating to your job or work environment, or you can contact Human Resources. While the Town cannot promise that every problem will be resolved to your satisfaction, the Town values your input, and you should feel free to raise issues of concern.

- a) **Equal Employment Opportunity.** The Town is an equal employment opportunity employer and does not discriminate in hiring or employment on the basis of race, color, religious creed, national origin, sex, ancestry, sexual orientation, as defined by law, or on the basis of age, as defined by law, disability, gender identity or expression, as defined by law, genetic information, veteran's status, military service or application for military service, or pregnancy (collectively, "Protected Classes"). If you believe you require an accommodation in order to perform the essential functions of your job due to disability, please notify Human Resources.
- b) **Harassment.** Harassment on the basis of a Protected Class (hereafter referred to as "harassment"), is a form of behavior or conduct that adversely affects the employment relationship. State and Federal law prohibit such behavior or conduct. The Town also condemns and prohibits the unlawful harassment of any applicant, client, vendor or visitor. Because the Town takes allegations of harassment seriously, we will respond promptly to complaints of harassment and, where it is determined that inappropriate conduct has occurred, we will act promptly to address the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.
- c) **The Rule.** It is against the policy of the Town for any individual to harass another individual on the basis of a Protected Class when:
  1. submission to or rejection of such conduct is made either implicitly or explicitly a term or condition of employment or a basis for employment decisions; or
  2. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating a hostile, humiliating, or offensive work environment.
  3. It is also against the policy of the Town for an individual to engage in any inappropriate or unprofessional conduct in the workplace.
- d) **Examples of Conduct That May Constitute Harassment.**

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<sup>1</sup> Sexual harassment is covered by a separate policy, which has been issued to all employees.

While it is not possible to list all of the circumstances that may constitute unlawful harassment, depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness, the following is a list of situations that could constitute unlawful harassment:

1. verbal abuse, comments, jokes, teasing, threats or the use of words that degrade a person because of his/her Protected Class;
  2. obscene or suggestive gestures or sounds intended to relate to a person's Protected Class;
  3. posting or distributing letters, notes, objects, pictures, cartoons or other materials that degrade a person because of his/her Protected Class;
  4. sending or posting offensive or discriminatory messages or materials related to an individual's Protected Class through the use of electronic communications (e.g., internal and external electronic mail, voicemail, facsimile, and Internet sites, including social media sites); and
  5. Condoning harassment on the basis of a person's Protected Class.
  6. Harassment can occur in a variety of circumstances. Here are some things to remember:
    - i. The harasser does not have to be the victim's supervisor; and
    - ii. The victim does not have to be the person at whom the unwelcome harassment is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the victim or unreasonably interferes with the victim's work performance by creating a hostile, humiliating, or offensive work environment.
- e) **Individual Responsibilities.** Each individual of the Town is personally responsible for:
1. ensuring that his/her conduct does not harass any other individual with whom he/she comes in contact on the job, such as a subordinate, co-worker, client, visitor, applicant or outside vendor;
  2. cooperating in any investigation of alleged harassment by providing any information he/she possesses concerning the matter being investigated;
  3. actively participating in efforts to prevent and eliminate harassment and to maintain a work environment free from such harassment; and
  4. ensuring that an employee who files a good-faith harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

## **II. Violation of Policy**

Any individual violating this policy will be subject to appropriate discipline, including possible termination of employment.

## **III. Procedures for Complaints**

- a) **Complaint.** The Town has designated a Protected Class Harassment Grievance Officer. The current Protected Class Harassment Grievance Officer is Stuart Beckley, HR Manager. He can be reached at Town of Ware, 126 Main Street, Ware, MA 01082 and his telephone number is (413) 967-9648, ext. 100. If you would prefer, you may contact HR Director, Trish Barnes, who has been designated as the Alternate Protected Class Harassment Grievance Officer. Her telephone number is (413) 967-9648, ext. 117.

If any individual believes he or she has been subject to harassment on the basis of his/her Protected Class, the individual should initiate a complaint by contacting the Harassment Grievance Officer or the Alternate Harassment Grievance Officer as soon as possible. The individual should make the complaint promptly following any incident of alleged harassment. The individual should be aware that the longer the period of time between the event giving rise to the complaint and the complaint being made, the more difficult it will be for the Harassment Grievance Officer or his/her designee to investigate what occurred. The individual will be asked to write out his or her complaint to document the allegation.

If an employee prefers to discuss a possible harassment problem with his or her supervisor, or Human Resources, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting harassment and may, instead, go directly to the Harassment Grievance Officer or the Alternate Harassment Grievance Officer.

- b) **Investigation.** Upon receiving the complaint, the Harassment Grievance Officer or the Alternate Harassment Grievance Officer, or his/her designee, will promptly undertake an investigation of the matter. The investigation will include interviews with the employee making the complaint, with witnesses, and with the person accused of harassment. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.
- c) **Decision.** When the investigation is completed, the Town will, to the extent appropriate, inform the person who filed the complaint, as well as the person alleged to have committed the complained-of conduct, of the results of the investigation. If the investigation reveals that unlawful harassment or other inappropriate conduct did occur, the Town will act promptly to eliminate the offensive conduct.
- d) **Retaliation.** Retaliation against an individual for making a good-faith complaint of harassment, or against any individual for cooperating in an investigation of a harassment complaint, is against the law. The Town will not tolerate any such retaliatory conduct. If any employee believes that he or she has been subjected to retaliation for having brought a complaint of harassment, or for having participated in an investigation of a complaint of harassment, that employee is encouraged to report the situation as soon as possible to the Harassment Grievance Officer or the Alternate Harassment Grievance Officer, or to the employee's supervisor, or Human Resources.

#### **IV. State and Federal Agencies**

The Massachusetts Commission Against Discrimination ("MCAD") is responsible for enforcing the state law prohibiting harassment on the basis of Protected Class. The MCAD can be reached at 484 Main Street, Suite 320, Worcester, MA 01608, (508) 799-8010, or at 436 Dwight Street, Suite 220, Springfield, MA 01103, (413) 739-2145, or at One Ashburton Place, Boston, MA 02108, (617) 994-6000. The U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the Federal law prohibiting harassment on the basis of Protected Class. The EEOC can be reached at John F. Kennedy Federal Building, Government Center, Room 475, Boston, MA 02203, (617) 565-3200. A complaint to the MCAD must be filed within 300 days. A complaint under the Federal

law should be filed within 180 days, but under certain circumstances, a Federal complaint may be filed within 300 days

#### **V. Workplace Conduct**

It is important to note that while this policy sets forth the Town's goal of promoting a workplace that is free of harassment, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of unlawful harassment.

## 1.11 Sexual Harassment Prevention Policy and Procedures<sup>2</sup>

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The Town of Ware (the "Town") depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to providing a working environment that is free of all forms of abuse or harassment. The Town recognizes the right of all individuals to be treated with respect and dignity.

### I. POLICY

#### A. Introduction

Sexual harassment is a form of behavior or conduct that adversely affects the employment relationship. State and Federal law prohibit such behavior or conduct. Sexual harassment of individuals occurring in the workplace or in other settings in which individuals of the Town may find themselves in connection with their employment is unlawful under Federal and State law and will not be tolerated by the Town. The Town also condemns and prohibits sexual or other unlawful harassment of any applicant, client, vendor or visitor.

Because the Town takes allegations of sexual harassment or abuse seriously, we will respond promptly to complaints of sexual harassment or abuse and where it is determined that inappropriate conduct has occurred, we will act promptly to address the conduct and impose such corrective action as is necessary, including disciplinary action or termination where appropriate.

It is important to note that while this policy sets forth our goal of promoting a workplace that is free of sexual harassment or abuse, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct that we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

- B. The Rule. It is against the policy of the Town for any individual, male or female, to harass another individual sexually, that is, by making unwelcome sexual advances, requests for sexual favors, or other uninvited verbal or physical conduct of a sexual nature when:

1. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or a basis for employment decisions; or
2. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating, or sexually offensive work environment.
3. It is also against the policy of the Town for an individual to engage in any other form of unlawful harassment, inappropriate or unprofessional conduct in the workplace.

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<sup>2</sup> Harassment on the basis of race, color, religious creed, national origin, gender, ancestry, sexual orientation, as defined by law, or on the basis of age, as defined by law, disability, gender identity or expression, as defined by law, genetic information, veteran status, military service or application for military service, or pregnancy is covered by the Town's *Protected Class Harassment Policy*.

- C. **Examples of Conduct That May Constitute Sexual Harassment.** While it is not possible to list all of the circumstances that may constitute sexual harassment, the following are some examples of conduct that may constitute sexual harassment, depending upon the totality of the facts, including the severity of the conduct and its pervasiveness:

1. verbal abuse, jokes or language of a sexual nature;
2. use of sexually degrading words;
3. conversation or gossip with sexual overtones;
4. obscene or suggestive gestures or sounds;
5. sexually-oriented teasing;
6. verbal comments of a sexual nature about an individual's appearance or sexual terms used to describe an individual;
7. inquiries into one's sexual experiences or discussion of one's sexual activities;
8. comments, jokes or threats directed at a person because of his/her sexual preference;
9. unwelcome invitations (for lunch, dinner, drinks, dates, sexual relations);
10. demand for sexual favors whether or not accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment;
11. physical contact such as touching, hugging, kissing, stroking, fondling, patting, pinching or brushing up against one's body;
12. deliberate bumping, cornering, mauling, grabbing;
13. assaults of a sexual nature, molestations or coerced sexual acts;
14. posting or distributing sexually suggestive objects, pictures, cartoons or other materials;
15. sexually-oriented letters or notes;
16. sending or posting offensive or discriminatory messages or materials through the use of electronic communications (e.g., internal and external electronic mail, voicemail, facsimile, and Internet sites, including social media sites) that contain overt sexual language, sexual implications or innuendo, or comments that offensively address someone's sexual orientation;
17. sexually suggestive gestures, leering, or staring at parts of a person's body; and
18. condoning sexual harassment or abuse.

Sexual harassment is not limited to prohibited behavior or conduct by a male employee toward a female employee. Sexual harassment can occur in a variety of circumstances. Here are some things to remember:

1. A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser;



2. The harasser does not have to be the victim's supervisor;
3. The victim does not have to be of the opposite sex from the harasser; and
4. The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the victim or unreasonably interferes with the victim's work performance by creating a hostile, humiliating, or sexually offensive work environment.

D. **Individual Responsibilities.** Each individual of the Town is personally responsible for:

1. ensuring that his/her conduct does not sexually harass any other individual with whom he/she comes in contact on the job, such as a subordinate, co-worker, customer, visitor, applicant, or outside vendor;
2. cooperating in any investigation of alleged sexual harassment by providing any information he/she possesses concerning the matter being investigated;
3. actively participating in efforts to prevent and eliminate sexual harassment or abuse and to maintain a work environment free from such harassment or abuse; and
4. ensuring that an individual who files a good faith sexual harassment or abuse claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

## II. Violation of Policy

Any individual violating this policy will be subject to appropriate discipline, including possible termination of employment.

## III. Procedures for Complaints

- a. **Complaint.** The Town has designated a Protected Class Harassment Grievance Officer. The current Protected Class Harassment Grievance Officer is Stuart Beckley, HR Manager. He can be reached at Town of Ware, 126 Main Street, Ware, MA 01082 and his telephone number is (413) 967-9648, ext. 100. If you would prefer, you may contact HR Director, Trish Barnes, who has been designated as the Alternate Protected Class Harassment Grievance Officer. Her telephone number is (413) 967-9648, ext. 117.

If any individual of the Town believes he or she has been subjected to sexual harassment or abuse, the individual should initiate a complaint by contacting the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer as soon as possible. The individual should make the complaint promptly following any incident of alleged harassment. The individual should be aware that the longer the period of time between the event giving rise to the complaint and the complaint being made, the more difficult it will be for the Sexual Harassment Grievance Officer or his/her designee to investigate what occurred. The individual will be asked to write out his or her complaint to document the allegation.

If an employee prefers to discuss a possible sexual harassment issue with his or her supervisor or Human Resources, the employee may always do so, but employees do not have to go through the regular chain of supervision when

reporting sexual harassment or abuse and may instead go directly to the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer.

- b. **Investigation.** Upon receiving the complaint, the Sexual Harassment Grievance Officer or Alternate Sexual Harassment Grievance Officer, or his/her designee, will promptly undertake an investigation of the matter. The investigation will include interviews with the employee making the complaint, witnesses, and the person accused of sexual harassment. The investigation will be conducted in such a way to maintain confidentiality to the extent practicable under the circumstances.
- c. **Decision.** When the investigation has been completed, the Town will, to the extent appropriate, inform the person who filed the complaint, as well as the person alleged to have committed the complained-of conduct, of the results of the investigation. If the investigation reveals that sexual harassment or other inappropriate conduct did occur, the Town will act promptly to eliminate the offensive conduct.
- d. **Retaliation.** Retaliation against an individual for making a good-faith complaint of sexual harassment or abuse, or against any individual for cooperating in an investigation of a sexual harassment or abuse complaint, is against the law. The Town will not tolerate any such retaliatory conduct. If any employee believes that he or she has been subjected to retaliation for having brought a complaint of harassment or abuse, or for having participated in an investigation of a complaint of harassment or abuse, that employee is encouraged to report the situation as soon as possible to the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer, or the employee's supervisor, or Human Resources.

#### IV. State and Federal Agencies

The Massachusetts Commission Against Discrimination ("MCAD") is responsible for enforcing the state law prohibiting sexual harassment. The MCAD can be reached at 484 Main Street, Suite 320, Worcester, MA 01608, (508) 799-8010, or at 436 Dwight Street, Suite 220, Springfield, MA 01103, (413) 739-2145. The U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the Federal law prohibiting sexual harassment. The EEOC can be reached at the John F. Kennedy Federal Building, Government Center, Room 475, Boston, MA 02203, (617) 565-3200, or at One Ashburton Place, Boston, MA 02108, (617) 994-6000. A complaint to the MCAD must be filed within 300 days. A complaint under the Federal law should be filed within 180 days, but under certain circumstances, a Federal complaint may be filed within 300 days.

#### V. Workplace Conduct

It is important to note that while this policy sets forth the Town's goal of promoting a workplace that is free of sexual harassment or abuse, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment or abuse.

## 1.12 Health Insurance Portability & Accountability Act - HIPAA

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The Town will comply with the Privacy Regulations of the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996. The Town shall limit the use of and access to Protected Health Information which is held by the Town or its lawful agents. Protected Health Information is any written, oral or electronic form of information relating to a person's past, present or future health condition, delivery or payment of health services that identifies an individual or where there is a reasonable basis to believe the information could be used to identify an individual. Administrative, technical and physical safeguards established to limit use and access to protected health information are stated as an integral part of this policy, established as part of daily operating procedures and will be maintained by all responsible staff and representatives of lawful agents and business associates of the Town.

To assure this commitment to compliance, the Town Manager designates a Privacy Contact (HR Director) who shall have the responsibility:

1. To ensure that the Town Manager and Select Board are kept informed of all changes, updates, requirements, responsibilities, claims, etc. concerning the HIPAA privacy regulations;
2. To ensure that documentation of the Town's efforts to comply with HIPAA privacy regulations is maintained;
3. To ensure that any protected health information disclosures are tracked;
4. To ensure that authorizations for disclosure and use of protected health information are properly processed;
5. To resolve complaints from participants about possible privacy violations;
6. To ensure that appropriate Town liaisons are maintained with the group health insurance program third party administrator, relevant business associates, and health insurance carriers, communicating the Town's commitment and securing the commitment of these entities to the privacy and security of protected health information;
7. To ensure that all required authorizations, agreements, etc. relative to the protected health information of group health insurance program participants are maintained; and
8. To monitor the Town's compliance with HIPAA privacy regulations on a regular basis.

Only those Town officials with a legitimate business purpose and bona fide need to know may be given access to protected health information in order to legally perform the position duties and administer the program.

Information which is normally maintained in the employment record which is classified as protected health information includes all forms, responses, inquiries and data relative to the Family Medical Leave Act, drug screenings, fitness for duty, workers compensation, disability, life insurance, the Occupational Safety and Health Act and sick leave.

As an employer, the Town may use protected health information in its possession without specific authorization from the employee for treatment, payment, quality assessment, medical review and auditing, studies to improve the group's health care quality or reduce health care costs, compiling civil/criminal proceedings, and any other use required by law for public health, communicable disease, abuse or neglect, or food and drug administration purposes.

Protected employee health information may be released for other purposes only by the employee's authorization. The use and/or disclosure of protected health information is limited to the specific information for the specific purpose, to and from the specific individual and/or entity for a specific time period as delineated by the employee's authorization. Group health insurance program participants are allowed to review their protected health information that is held by the Town and to correct errors.

The Town separates protected health information from the employment record and retains such information in a locked file accessible only to authorized personnel. All entities which could receive protected health information (third party administrator, ambulance billing company, fully insured plan providers, legal counsel, actuaries and consultants) must enter into a business associate agreement with the Town committing to compliance with the HIPAA Privacy Regulations and providing satisfactory assurances that the business associate will appropriately safeguard the protected health information.

Participants that believe they have been aggrieved by the use or disclosure of protected health information may file a written grievance with the Privacy Contact within sixty (60) calendar days of the use or disclosure of the protected health information or within fifteen (15) calendar days of their knowledge of said use or disclosure. The grievance must delineate the specifics of the complaint, including but not limited to:

1. What unauthorized protected health information was released;
2. Who received the protected health information and/or is knowledgeable of the protected health information;
3. When the protected health information was released and/or when the complainant became aware of the unauthorized knowledge of the protected health information; and
4. What was the result of the release of the unauthorized protected health information?

The Privacy Contact will meet with the complainant as soon as possible after the receipt of the grievance. During this meeting, the Privacy Contact will discuss the issue brought forward with the complainant. The Privacy Contact will investigate the allegations of the complaint with the full support and assistance of Town management and, if necessary, legal counsel. The Privacy Contact will provide a written report of his/her findings and recommended action, if warranted, to the Town Manager and the complainant within thirty (30) calendar days from the date of the meeting with the complainant. If for some reason, the Privacy Contact is unable to conduct this meeting and/or investigation the Town Manager shall appoint an alternate senior manager to perform these duties.

Complainants may also contact the Federal Department of Health and Human Services for assistance.

The Town will comply with the Privacy Regulations established by the Federal Government and requires its employees to observe and comply with this policy and the use of the proper procedures and policy documents. Employees found to have breached protected health information security will be subject to disciplinary action, up to and including termination.

## 1.13 Jury Duty

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The Town of Ware, in accordance with Chapter 234A, Section 48 of the Massachusetts General Laws, shall pay employees his or her base wages for the first three (3) days, or a part thereof, of such juror service that occurs on their regularly scheduled work day. For fourth and subsequent days of such juror service, the employee shall continue to be paid his/her base wages provided that such employee pays over to the Town any jury service fees received.

An employee who is required to serve as a grand or traverse juror in a federal court shall receive from the Town the difference between his/her base wages and the compensation he/she received for such jury service, exclusive of any travel or other allowance.

An employee seeking compensation in accordance with this policy shall notify their Department Head after receipt of the notice of selection for jury duty, and shall furnish a written statement to the Town showing dates of juror service, time served, and amount of juror compensation received.

As a condition to receiving payment for jury duty from the Town, an employee must report to work if during such duty he/she is discharged for the day or major portion thereof during regular work hours, provided the employee can return to work with at least two (2) hours remaining in the workday.

## 1.14 Massachusetts Parental Leave

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The Town of Ware provides eligible employees 8 weeks of unpaid leave for childbirth or adoption of a child pursuant to Massachusetts Law, G.L. c. 149, § 105D.

Eligible employees must have completed 3 months of full-time work.

Employees are required to provide their request for leave to their Department Head at least 2 weeks prior to the start of the leave and indicate if they are planning to return from their leave.

Any eligible parent, regardless of gender, may request Parental Leave for the adoption or birth of a child. If both eligible parents work for The Town of Ware, they are entitled to an aggregate of 8 weeks of leave.

If the employee is eligible for FMLA, the employee's Parental Leave would count simultaneously against the 12-week FMLA entitlement. If the employee takes 12 weeks of FMLA leave for a purpose other than for the birth or adoption of a child, they would still have the right to take 8 weeks of Parental Leave.

Upon return from leave, employees will be reinstated to the same or a similar position as the one they had when they left. The Town of Ware maintains a separate Family & Medical Leave Act (FMLA) policy. Employees can obtain more detailed information regarding Parental Leave or FMLA from the HR Director or the Town Manager.

## 1.15 USERRA - Military Leave

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Eligible employees who are absent from work while serving in the United States uniformed services are granted military leave of absence in accordance with USERRA (uniformed Services Employment and Reemployment Rights Act.)

Reemployment rights extend to persons who have been absent from a position of employment because of "service in the uniformed services." "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service, including:

1. Active duty and active duty for training
2. Initial active duty for training
3. Inactive duty training
4. Full-time National Guard duty
5. Absence from work for an examination to determine a person's fitness for any of the above types of duty
6. Funeral honors duty performed by National Guard or Reserve members
7. Duty performed by intermittent employees of the National Disaster Medical System (NDMS), which is part of the Department of Health and Human Services, when activated for a public health emergency, and approved training to prepare for such.

The "uniformed services" consist of the following:

1. Army, Navy, Marine Corps, Air Force and Coast Guard
2. Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve and Coast Guard Reserve
3. Army National Guard and Air National Guard
4. Commissioned Corps of the Public Health Service
5. Any other category of persons designated by the President in time of war or emergency

To qualify for USERRA and be reinstated to the workplace, employees must meet these requirements:

1. The worker was employed by the Town of Ware when they volunteered or were called up for active duty
2. The worker provided reasonable notice that they would be going on military leave
3. The worker was on military leave for five years or less
4. The worker was honorably discharged from the military
5. The worker applied for reinstatement in a timely manner

## 1.16 Small Necessities Leave Act – SNLA

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In accordance with M.G.L. c. 149, s. 52D (“Small Necessities Leave Act”), the Town will grant eligible employees a total of 24 hours of unpaid leave during any 12-month period. These 24 hours are in addition to the 12 weeks already allowed under the Federal Family and Medical Leave Act. The 24 hours will be tracked on a fiscal year basis.

To be eligible, the employee must:

1. have been employed for at least 12 months by the employer from whom the leave is requested, and
2. provided at least 1,250 hours of service to the employer during the previous 12-month period.

The 24 hours of leave may be taken by an eligible employee for any of the following purposes:

1. to participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school;
2. to accompany the son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations;
3. to accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to the elder’s care, such as interviewing at nursing or group homes.

Employees wishing to take SNLA leave must provide seven (7) days written notice to their Department Head, where possible. If this notice is not possible, notice must be given as soon as practicable before the leave begins.



## 1.17 Smoke-Free Workplace

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The Town of Ware complies with the MA Smoke-Free workplace law and the Ware Board of Health Regulations to protect employees from health hazards resulting from the exposure to second-hand smoke.

Smoking, vaping, or the use of any product listed below are not permitted in any Town buildings, work sites, or vehicles or on Town owned property. Employees wishing to engage in these activities may do so during their designated break times, outside of Town property, in designated areas and in accordance with state and local ordinances.

Types of products prohibited:

- a. ALL tobacco products. Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, niffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; or electronic cigarettes, electronic cigars, electronic pipes, electronic pens, electronic hookah, liquid nicotine, "e-liquids" or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product.
- b. The above definition includes cigarettes, cigars, and all tobacco that can be combusted, as well as smokeless, blunt wraps, loose tobacco and e-cigarettes and vape pens and any other iteration of an e-cigarette
- c. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

In accordance with the Town of Ware Board of Health, any person found smoking, vaping or using any tobacco products in a smoke-free area shall be punished by a fine of:

- a. \$100 for the first violation;
- b. \$200 for a second violation occurring within two (2) years of the date of the first offense; and
- c. \$300 for a third or subsequent violation occurring within two (2) years of the second violation.

Each calendar day on which a violation occurs shall be considered a separate offense.

Violations of the Smoke-Free Workplace policy will also result in disciplinary action up to and including termination of employment.

## 1.18 Whistleblower Protection Policy

The Town of Ware will follow Massachusetts General Laws, Chapter 149, Section 185, known as the MA Whistleblower Protection Act of 1992. This law protects employees from retaliatory action for voluntarily disclosing information about dishonest or illegal activities.

An adverse action is an action which would dissuade a reasonable employee from raising a concern about a possible violation or engaging in other related protected activity. Retaliation can have a negative impact on overall employee morale.

Because an adverse action can be subtle, it may not always be easy to spot. Examples of adverse actions include, but are not limited to:

- Firing or laying off
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation or harassment
- Making threats
- Reassignment to a less desirable position or actions affecting prospects for promotion (such as excluding an employee from training meetings)
- Reducing pay or hours
- More subtle actions, such as isolating, ostracizing, mocking, or falsely accusing the employee of poor performance
- Blacklisting (intentionally interfering with an employee's ability to obtain future employment)
- Constructive discharge (quitting when an employer makes working conditions intolerable due to the employee's protected activity)

If an employee feels they have been retaliated against, a claim should be filed with the HR Director or the Town Manager. If the claim is against these individuals, the claim should be filed with the Select Board Chair.