

**SUNAPEE SELECTBOARD  
MEETING AGENDA  
6:30 PM TOWN OFFICE MEETING ROOM  
Monday, October 2, 2023**

**Present:** Chair Carol Wallace; Vice Chair Suzanne Gottling; Members Josh Trow, Jeremy Hathorn, and Frederick Gallup

**Also present:** Town Manager Martinez

**Meeting called to order at 6:30 p.m. by Chair Wallace.**

**1. REVIEW OF MINUTES**

The Board discussed the procedure for approving and posting minutes moving forward.

The Board approved the draft minutes for the September 18, 2023, Selectboard meeting as drafted.

**2. REVIEW OF ITEMS FOR SIGNATURE**

**CZCs**

- Parcel ID: 0233-0062-0000, 150 Bradford Road, Michael & Katrina Spear
- Parcel ID: 0136-0005-0000, 173 Burkehaven Hill Road, Gregory Parzych
- Parcel ID: 0211-0002-0000, 973 Route 11, Robert Sammon
- Parcel ID: 0225-0003-0000, 206 Route 11, Helene & Dwight Churchill
- Parcel ID: 0136-0045-0000, 25 Birch Point Lane, Ambrose & Yvonne Cheung

**AFTER THE FACT**

- Parcel ID: 0211-0002-0000, 973 Route 11, Robert Sammon (in accordance with CZC 23-4248)
- Parcel ID: 0225-0003-0000, 206 Route 11, Helene & Dwight Churchill (in accordance with CZC 23-4254)

**USE OF FACILITIES**

- Sunapee High School Student Council requesting use of Sunapee Harbor on October 14, 2023, from 6:00 p.m. to 8:00 p.m. for a Homecoming bonfire
- Carolyn Gatesy requesting a Road Closure at 87 Lake Avenue on September 29, 2023, from 11:00 a.m. to 2:00 p.m., so a crane could pick up a hot tub

The Board discussed the procedure for handling road closures. Requests for road closures will be transitioned to an online form and the appropriate departments notified.

**Consent Agenda: MOTION to approve CZCs, After the Fact, and Use of Facilities made by Member Gallup. Motion seconded by Member Hathorn. All voted in favor.**

### **3. APPOINTMENTS**

#### **NH Trust Presentation**

Paul Provost of the New Hampshire Trust Company and Kristin Clark of Merrimack County Savings Bank appeared before the Board to discuss how their companies could help the Town take responsible fiduciary care of the Town's financial resources.

#### **Town of Sunapee Human Resources Director, Connie Sampson**

Connie Sampson, Town Human Resources Director, described the working group formed to overhaul the overall culture and build the foundation for a more forward-thinking collaborative environment. The Employee Handbook is in need of updating, and she presented suggested changes.

Ms. Martinez noted the Handbook is overdue to be reviewed, and procedures and policies need to be brought up to current legal standards. She added that some of these changes are incentives that are important to attract and retain quality staff. The Board discussed the financial impact to the Town of implementing these changes, such as adding holidays and changing the hours worked by a full-time employee. The residency requirement (distance an employee lives from their building) was also discussed.

The Board decided to vote on these changes at the October 30th meeting, to have more time to review the proposed changes.

A five-minute recess was called at 8:09 p.m.

The meeting was resumed at 8:13 p.m.

#### **Perkins Pond Protective Association**

Suzanne Graves, president of the Perkins Pond Protective Association, appeared before the Board, along with the members of the executive committee. She described the mission and the work of the Association. They are seeking approval to put a warrant article on the 2024 ballot to fund a watershed management study for the Perkins Pond watershed.

She described the watershed and the need for a watershed management plan to determine the sources of the pollutants present in the pond. She explained the work that is being done to protect the quality of the water and the watershed.

Ms. Graves listed the issues that need to be addressed, including materials entering the pond and plant life depositing muck at the bottom. To get funding for the Town to help with this problem, they have been preapproved for a Clean Water State Revolving Fund Watershed Management Plan for a loan of up to \$100,000. The Town will pay 2% interest on the loan. Once the management plan is completed, the state will forgive the loan. The plan will identify the challenges for the watershed, causes, and potential solutions. It opens the door for funding for grants to fix the problems.

To obtain final approval for the plan, this needs to go to a warrant article and must pass at three-fifths at the Town Meeting in March 2024. The grant application will be submitted after the warrant article passes and the study will hopefully start in June/July 2024.

The Board expressed their support for placing this on the warrant and giving the voters an opportunity to express their support for Perkins Pond. They stressed the need to educate the public on this issue before the Town Meeting. Ms. Martinez noted that she lives there, and would need the Board's approval to work on this project to avoid any concern about conflict of interest.

The Association thanked the Board for their support.

**4. PUBLIC COMMENT:** public comments can be heard in full [here](#), beginning at 9:03 p.m.

- **John Augustine**, via Zoom, asked if all employees will get a 2.5% step pay increase in 2024, regardless of performance. He said there is no incentive to improve their performance, if all employees get the same increase. He also asked if there are performance metrics established for every position.
- **Chris Whitehouse** asked if it is required for a person to give their name and to verify themselves to be admitted to the meeting via Zoom. If so, it is a violation of the 91-A and 594.2 law. He also stated it is a First and Fourth Amendment violation to not admit someone into a public meeting. He said it is a violation of the Fourth Amendment to require an individual to identify themselves before participating in a public meeting.
- **Lisa Hoekstra** said she appreciates that the ethics policy is being reviewed, as it needs to be updated. She shared her edits of the policy with the Board. She noted there are overt mistakes in the registration documents for short-term rentals. She is disappointed the documents were not reviewed by the Board before they were distributed and shared her edits to the documents.
- **Christine Corey** thanked the Board for putting the minutes on the Agenda. She noted there are errors in the minutes and hopes the Board will find them in the future. She requested that in the minutes, the public comments should not be whitewashed, and the body and the spirit of their comments be included.

**5. SELECTBOARD ACTION**

**Review of Ethics Policy**

Chair Wallace moved the review of Ethics Policy to the next Board meeting.

**Old Business**

- Finalize Investment Policy
- Finalize Review Rules of Procedure

The Board agreed that the change in the meeting schedule to the first and third Monday of each month will begin December 1, 2023. The other changes to the Rules of Procedure are effective immediately.

A member of the public noted that the review of the Rules of Procedure was not completed at the last meeting; the review of Roberts Rules of Order was tabled. Chair Wallace clarified that Roberts Rules of Order do not need to be reviewed by the Selectboard and the Selectboard will conduct their meetings using Roberts Rules of Order moving forward.

**MOTION to adopt the Investment Policy and Rules of Procedure as discussed at the last meeting and proposed with the amendments made by Member Trow. Motion seconded by Member Gallup. All voted in favor.**

## **6. TOWN MANAGER REPORTS**

### **Coalition 2.0 Update**

Town Manager Martinez attended the Coalition's monthly meeting on September 26, 2023. She noted they expect continued debate over how the state funds education. The Town should anticipate Coalition 2.0 dues to increase in 2024. It is important for Sunapee to continue to maintain membership in this organization. It is actively monitoring ongoing court cases and legislation to mitigate how changes to the education-related property tax system impact Sunapee.

### **Release of Assessing Letters / Preliminary Assessment Values**

Assessing letters have been mailed to every property owner in Sunapee that reflect their updated assessment value. This is a preliminary value and does not indicate that taxes will be going up. In 2022, Sunapee's overall assessment ratio (inclusive of all property types) was 58.7%, meaning property was assessed at only half of what it could be expected to sell for. After revaluation, values should be aligned with true (100%) market value. Phone hearings will be scheduled so that taxpayer questions can be answered. There will be a community meeting with the Town Manager on October 12th to allow residents to ask questions.

### **Short-Term Rental Registration Platform Opening and Release of Letters**

The short-term rental registration platform has been piloted and is operational. The letters should be released in the next week.

### **Sunapee Recreation Survey**

The Recreation Assessment and Needs Survey has been deployed. It will remain open until October 23, 2023. Ms. Martinez urged residents to complete the survey. The survey can be found here: <http://www.bit.ly/sunapee-rec-survey>.

### **A Charrette from PLAN New Hampshire**

The Town is exploring the possibility of working with the Livery and Plan New Hampshire to co-host an event to discuss possible scenarios for the Harbor Village.

### **Town Hall Furnace**

Furnace quotes are coming in much higher than the original quote. The solutions being offered are more holistic and guaranteed to last longer. The team is going to reformulate a solution and return with an updated proposal for the Board's consideration.

**2022 Audit**

The draft financial report and governance letter have been received for the 2022 audit. The Board discussed whether the auditors need to appear before the Board each year. They agreed to revisit this issue after the first of the year.

**Sunapee Budget Advisory Committee**

The committee is holding its first meeting on October 4. Ms. Martinez asked for clarification on the purpose and intent of the committee. The Board discussed the structure and duties of the committee, and what is required for it to be a legal meeting.

**FERC Inspection**

On September 19, 2023, there was a FERC inspection. Two larger projects need to be addressed over the next year: 1) Continue to monitor the concrete deterioration and undercutting of the right retaining wall downstream of the tailrace and repair as needed; and 2) The large brush and trees within the stream that obstruct flow downstream of the dam should be removed.

**Municipal Boat Launch Investment Program Grant**

The Town of Sunapee was awarded the Municipal Boat Launch Investment Grant of \$39,000, which will cover the initial engineering costs to determine the scope and scale of overall repair at Georges Mills.

**Zoom**

Ms. Martinez addressed the recent incidents at the Planning Board meeting. The reason behind asking people to confirm their attendance has more to do with creating a safe space for all participants and less to do with controlling what people say at meetings. This is not an attempt to violate RSA 91-A. Zoom is a courtesy offered to the residents and if it continues to be problematic, it may need to be reviewed. The staff do not need be mistreated over Zoom management. Per counsel, the Town can regulate Zoom. The Board asked Ms. Martinez to consult legal counsel to determine if participants in a public meeting need to give their full name during public comment.

**Citizen Concerns: Harbor Spill**

Ms. Martinez asked the Selectboard if they felt more needed to be done as a follow-up to the Harbor spill. Board members agreed they did not see that any additional steps needed to be taken.

**Supreme Court Brief**

The Hoekstras' appeal to the Supreme court regarding the Town of Sunapee's Zoning Ordinance 3.40 has been received. The Town's brief is due October 31, 2023.

## **7. SELECTBOARD MEMBER'S REPORT**

Mr. Gallup suggested contacting the state to request an update on the Georges Mill road repair. He also noted the grassy area in front of the Information Booth is cluttered with signs and suggested asking the state what can be done about this.

## **8. UPCOMING MEETINGS**

Next Selectboard meeting: October 16, 2023

## **9. ADJOURNMENT**

**MOTION to adjourn was made by Member Trow. Motion seconded by Member Gallup. All voted in favor.**

Respectfully submitted,

Beth Haggeli  
Recording Secretary

# SIGN-IN SHEET

## SUNAPEE SELECTBOARD MEETING

DATE: OCTOBER 2<sup>ND</sup>

Tracey Applebee-Cole

JAMES RIVERS

Patricia McGoldrick

Pamela Shaw

Glen M Shaw

Ellen Winkler

Catharine E Priest

Stephen L. Priest

Joanne Laslie

Kristine Corey

Connie Sampson

AARON CARTIER

Wanda Dyer

GUNTHER NESTLER

Edisa Haskins

Bram Graves

Sheila Lewis

JOAN McALTON

Gilbert Watkins

Robert Evans

Anne VanTine

Holly Leonard

Mike Gredler

**SUNAPEE SELECTBOARD  
MEETING AGENDA  
6:30PM TOWN OFFICE MEETING ROOM  
Monday, October 2<sup>nd</sup>, 2023**

Join us on Zoom: <https://us06web.zoom.us/j/86066395397>

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**1. REVIEW OF MINUTES**

**2. REVIEW OF ITEMS FOR SIGNATURE:**

**CZC's**

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**3. APPOINTMENTS:**

- 7:00 PM NH Trust Presentation
- 7:30 PM Town of Sunapee Human Resources Director, Connie Sampson
- 7:45 PM Perkins Pond Protective Association
  - i. Seeking Selectboard approval to put a warrant article on the 2024 Ballot

**4. PUBLIC COMMENT:**

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**5. SELECTBOARD ACTION:**

- Review of Ethics Policy
- Old Business:



- i. Finalize Investment Policy
- ii. Finalize Review Rules of Procedure

**6. TOWN MANAGER REPORTS:**

- Coalition 2.0 Update
  - Release of Assessing Letters / Preliminary Assessment Values
  - Short-Term Rental Registration Platform Opening and Release of Letters
  - Sunapee Recreation Survey
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**7. SELECTBOARD MEMBER'S REPORT:**

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**8. UPCOMING MEETINGS:**

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**NONPUBLIC:** The Board of Selectmen may enter a nonpublic session, if so voted, to discuss items listed under RSA 91-A:3, II



OCTOBER 2, 2023

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# TOWN OF SUNAPEE

Paul Provost, President, NHTrust  
Kristin Clark, VP, Business Development Officer,  
Merrimack County Savings Bank



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**NEW HAMPSHIRE MUTUAL BANCORP**

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NEW HAMPSHIRE MUTUAL BANCORP

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# NHMB Values & A+ Merits

Accountability  
Mutuality  
Excellence  
Respect  
Integrity  
Teamwork  
Stewardship

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**NEW HAMPSHIRE MUTUAL BANCORP**

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## NEW HAMPSHIRE MUTUAL BANCORP (NHMB)

New Hampshire Mutual Bancorp (NHMB) is a shared services organization providing operational support for three premier independent mutual savings banks, Meredith Village Savings Bank, Merrimack County Savings Bank and Savings Bank of Walpole, and a financial advisory and trust company, NHTrust. The first relationship of its kind in northern New England, NHMB companies share support services such as human resources, information technology, finance, risk and compliance, deposit operations, loan operations and digital banking to provide overall efficiencies and best in class solutions for customers.

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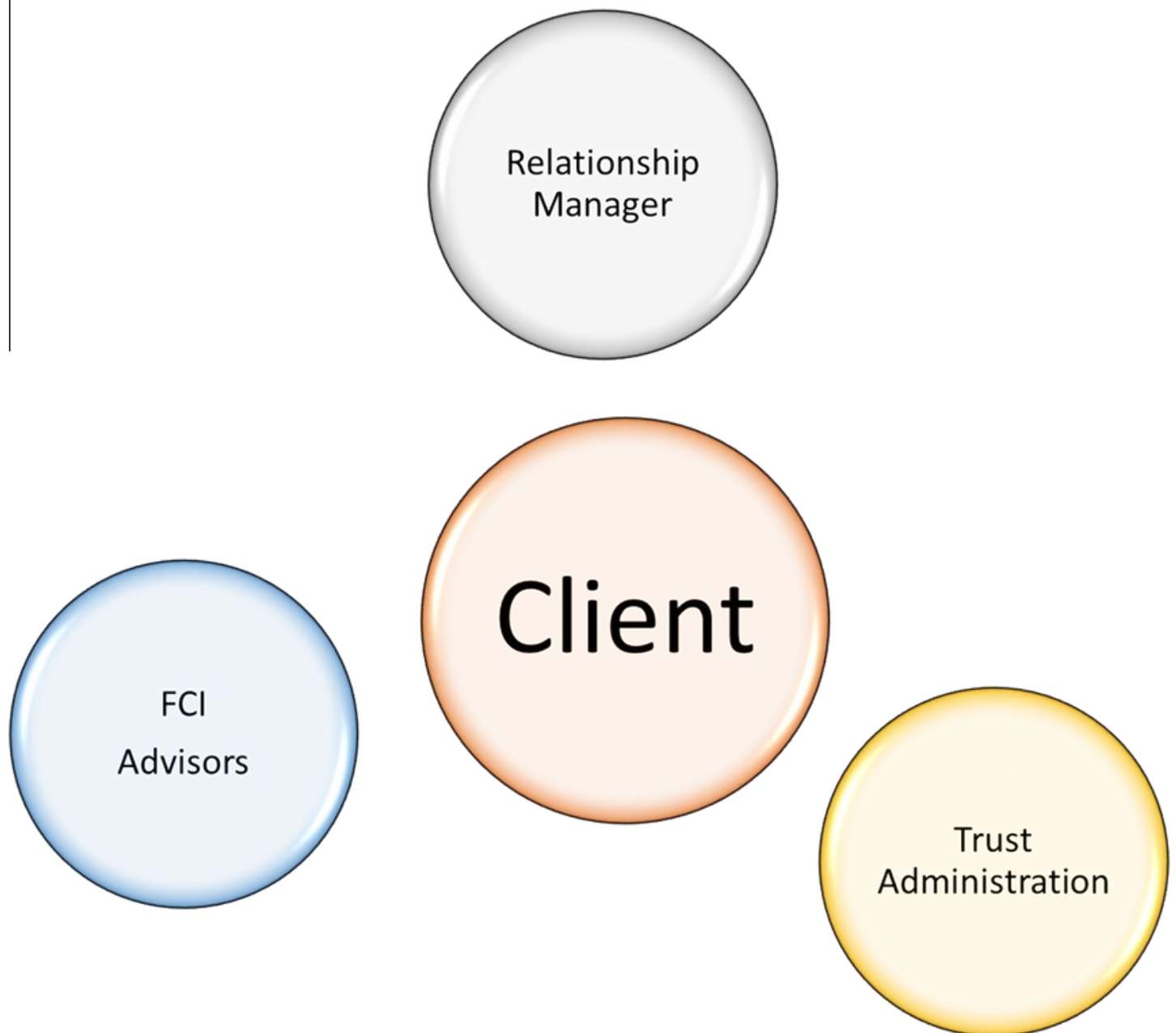
**NEW HAMPSHIRE**  
**MUTUAL BANCORP**

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## NHTRUST MAIN STREET ATTENTION & EXPERTISE





# NHTrust

FINANCIAL ADVISORS



"My career includes thirty years of experience serving on nonprofit boards and two decades of professional experience providing advice to nonprofit boards about their endowments."

**NHTrust**  
FINANCIAL ADVISORS

*Trust is earned.*

## Meet the NHTrust Team

**Paul M. Provost, CFP®**

President

### EDUCATION

- › College of Financial Planning, Merrimack College
- › MBA - Management, Saint Michael's College
- › Bachelor of Arts - Economics, University of Vermont

### CREDENTIALS

- › CERTIFIED FINANCIAL PLANNER PRACTITIONER (CFP®)

### COMMUNITY INVOLVEMENT

- › Past Board Member, Central NH Boys & Girls Club
- › Past Board Member, NH Charitable Foundation, Capital Region
- › Board Member, The NHHEAF Network
- › 2018 Alumni, Leadership NH
- › Trustee, State of New Hampshire Retirement System
- › Board Member, Concord Hospital Investment Committee

### PHILOSOPHY

"My passion is to provide quality financial advice as a service to those who themselves provide much needed community services to others."

### PERSONAL

"I enjoy reading, skiing and yoga."

### SPECIAL EXPERTISE

- › Financial Planning
- › Not-For-Profit Clients
- › Investment Management

I can be reached at [pprovost@nhtrust.com](mailto:pprovost@nhtrust.com) or 603.223.2698.



# NHTrust

FINANCIAL ADVISORS



"It's a privilege to work with our clients and be a part of a team that helps them establish and achieve their financial goals."

NHTrust  
FINANCIAL ADVISORS

*Trust is earned.*

## Meet the NHTrust Team

### Gregory M. McConahey

Senior Vice President

Relationship Manager - Portfolio Consultant

#### EDUCATION

- ▶ Bachelor of Science – Business, Miami University

#### CREDENTIALS

- ▶ Portfolio Manager - 30 years
- ▶ CFA Level 1 - investment tools, asset classes, portfolio management, ethical & professional standards

#### COMMUNITY INVOLVEMENT

- ▶ Monadnock Regional Foundation for Family Services - Board Member
- ▶ Monadnock Community Services Center - Board Member
- ▶ Keene Lions Club - Member

#### PERSONAL

Staying active by playing basketball, golfing, hiking or gardening; listening to many types of music.

#### SPECIAL EXPERTISE

- ▶ Investment management for individuals
- ▶ Endowments
- ▶ Municipal Trust Funds
- ▶ Business Profit Sharing Plans

I can be reached at [gmcconahey@nhtrust.com](mailto:gmcconahey@nhtrust.com) or 603.352.0864.





# NHTrust

FINANCIAL ADVISORS

## Meet Your NHTrust Support Team

**Kelly M. Brown,**  
Vice President,  
Administration & Operations  
Manager



**Loretta Gomes**  
Trust Administrator



**Mary Obara**  
Trust Administrator



NHTrust  
FINANCIAL ADVISORS

# The Power of Teamwork





## Partnerships

# How Main Street meets Wall Street



Founded in 1966

SEC Registered Investment Advisory Firm

\$ 13.9 billion in assets under management

67 Employees (including 36 Investment Professionals)

28 Portfolio Managers – 17 CFAs, 19 MBAs, 5 CFPs

Average of more than 24 years industry experience

Sub-advisory services for over 60 unaffiliated community bank trust departments and independent trust companies across the country



## Wall Street Expertise - FCI Partners



**UTE CLUNE**

Managing Director,  
Trust Investment Solutions



**STEPHEN LAWLER**

Vice President, Relationship Manager



**BENJAMIN HILL, CFA**

Senior Vice President,  
Portfolio Manager



**JAMES FIELDS, CFA**

Senior Vice President,  
Portfolio Manager





Osprey over the Merrimack River, Concord

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## MERRIMACK COUNTY SAVINGS BANK BUSINESS DEVELOPMENT



**MERRIMACK**  
COUNTY SAVINGS BANK

Providing products, services  
and support to enhance  
relationships with The  
Merrimack's business and  
commercial customers.

## Meet the Business Development Team



**Kristin Y. Clark**

Vice President

Business Development Banking  
Merrimack County Savings Bank

My career includes thirty two years of retail banking with a great focus of experience in analyzing and providing business solutions that are essential to the day to day financials and functions of a business. I have served on multiple nonprofits, promoting the need for donations and other support.

### Education

- Graduate of Gilford High School
- Graduate School of Leadership DDI
- Graduate Concord Leadership

### Community Involvement

- Past Board Chair, Belmont Senior Center
- Past Board Member, Wolfeboro Area Children's Center

### Philosophy

"The greatest measurement of value is to ensure each customer experience their value in all we do."

### Personal

"I enjoy painting, and daily workouts"

### Special Expertise

- Financial Analysis
- Customer Service



**MERRIMACK**  
COUNTY SAVINGS BANK



**MERRIMACK**  
COUNTY SAVINGS BANK

## Meet Your Merrimack Business Support Team

**Shantelle Sutkus**  
Business  
Development Officer



**Brittany Par**  
Business Client  
Services Administrator



# MERRIMACK

## COUNTY SAVINGS BANK



**Business Online Banking :**  
also known as **Cash Management.**  
Allows for multiple users



**Positive Pay:** Fraud prevention for  
both checks & ACH



**Remote Deposit Now:** Deposits  
made at your location

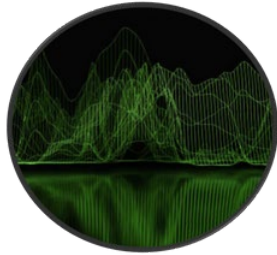


**ACH (Automated Clearing  
House):**  
Payments, Payroll, EFTPS,  
and Collections





Repetitive & Non-Repetitive Wires:  
through Cash Management.



Enhanced Account Analysis:  
Interest Earnings to offset fees



ICS (Insured Cash Sweep):  
FDIC coverage



**MERRIMACK**  
COUNTY SAVINGS BANK

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# ICS through Intrafi

ICS distributes a customer's funds based on a target amount into participating financial institutions never to exceed \$250,000 in any one single institution to ensure all funds are covered by FDIC. There is no cost for this service.

We remain the custodian of the funds.

Funds remain fully liquid, and will sweep automatically.

Interest is earned on funds in Intrafi - dependent on dollar amount

Agreement is needed.

No term limits.

Statements are monthly - separate from the Bank's statements.



**MERRIMACK**  
COUNTY SAVINGS BANK



**MERRIMACK**  
COUNTY SAVINGS BANK

**NHTrust**

FINANCIAL ADVISORS

OUR CONTACT DETAILS

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89 N. Main Street  
Concord, NH 03301

Phone Number

603.223.2698 - Paul  
603.455 8682 - Kristin

Email Address

pprovost@nhtrust.com  
kclark@themerrimack.com

**Thank you!**

# Town of Sunapee Investment Policy

## **I. Introduction**

It is the policy of the Town of Sunapee to invest public funds in a manner that will provide maximum security of the funds and a yield consistent with this level of security, while meeting the daily cash flow needs of the town and conforming to all laws governing the investment of public funds. The Town Treasurer shall have custody of all monies belonging to the town and shall pay out the same only upon orders of the Town Manager in accordance with NH-RSA 37:5 and NH-RSA 37:6 IV or, in the case of a Conservation Fund established pursuant to RSA 36-A:5 II upon the order of the Conservation Commission.

## **II. Scope**

The Town operates a consolidated cash account for all funds, excluding Trust Funds. This includes the General Fund and Proprietary/Special Revenue Funds. This policy applies to the investment of these funds. Investment income will be credited to the General Fund unless provisions of State or Federal law concerning certain funds require otherwise. Trust Funds are excluded from this policy.

## **III. General Objectives**

The primary objectives of investment activities, in order of priority, shall be safety, liquidity, yield and minimizing service charges:

A. Safety - Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to minimize credit risk and interest rate risk.

1. Credit Risk - The Town will minimize credit risk, the risk of loss due to the failure of the security issuer or backer, by:
  - a. Limiting investments to the safest types of securities.
  - b. Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with which the Town will do business.
  - c. Diversifying the investment portfolio so potential losses on individual securities will be minimized.
2. Interest Rate Risk - The Town will minimize the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, by:
  - a. Structuring the investment portfolio so securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
  - b. Investing operating funds primarily in shorter-term securities, including shares in a local government investment pool.
3. Ineligible Trading Techniques - The Treasurer shall refrain from purchasing investments using the following techniques:
  - a. No investments will be made by leveraging techniques, i.e., purchasing on margin or use of securities to acquire additional investments.
  - b. No trading shall occur involving selling short.
  - c. No investment in cryptocurrency.

B. Liquidity - The investment portfolio shall remain sufficiently liquid to meet requirements to sustain operations for any three-month period.

For directly purchased securities, the maturity shall be concurrent with cash needs to meet anticipated demands (static liquidity). Furthermore, since all possible cash demands cannot be anticipated, these securities should have active secondary or resale markets (dynamic liquidity). A large portion of the portfolio should be placed in more liquid investments, providing for daily liquidity.

C. Yield - The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, considering the investment risk constraints and liquidity needs set forth above. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments is limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:

1. A declining credit security may be sold early to minimize loss of principal.
2. A security swap would improve the quality, yield, or target duration in the portfolio.
3. Liquidity needs of the portfolio require that the security be sold.

#### **IV. Standards of Care**

A. Prudence - The standard of prudence to be used by the Treasurer shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

B. Ethics and Conflicts of Interest - Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Such employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Such employees and officers shall refrain from undertaking personal investment transactions with the same individual/entity with which business is conducted on behalf of their Town.

C. Delegation of Authority - Authority to manage the investment program is vested with the Treasurer and derived from the following: NH State RSA 41:29. The Treasurer shall act in accordance with established procedures and internal controls for the operation of the investment program consistent with this investment policy. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Treasurer. The Treasurer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinates.

#### **V. Safekeeping and Custody**

A. Authorized Financial Dealer and Institutions – Use of security broker/dealers will be based on creditworthiness (a minimum capital requirement of \$100,000,000 and at least five years of operation). These may include “primary” dealers or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15C3-1 (uniform net capital rule).

1. All financial institutions and broker/dealers who desire to become qualified bidders for

investment transactions must supply the following as appropriate:

- a. Audited financial statements
  - b. Proof of National Association of Securities Dealers (NASD) certification
  - c. Proof of state registration
  - d. Certification of having read the Town's investment policy
2. An annual review of the financial condition and registration of qualified bidders will be conducted by the Treasurer.
- B. Internal Controls - The internal controls shall address the following points:
1. Control of collusion
  2. Separation of transaction authority from accounting and record keeping
  3. Custodial safekeeping
  4. Avoidance of physical-delivery securities
  5. Clear delegation of authority to subordinate staff members
  6. Written confirmation of transactions for investments and wire transfers
  7. Development of a wire transfer agreement with the lead bank or third-party custodian

## **VI. Suitable and Authorized Investments**

A. Investment Types – The following investments will be permitted by this policy and are those defined by state law where applicable:

1. US Government Obligations
2. Participation units of the New Hampshire Public Deposit Investment Pool
3. Certificates of Deposit in New Hampshire Banks
4. Repurchase Agreements whose underlying security consists of US Government Obligations, US Government Agency Obligations or State of NH obligations.
5. ICS Sweep

B. Financial institutions where funds are kept on deposit, in CDs or Repurchase Agreements must meet the following criteria:

1. Minimum total assets of \$100 million
2. Minimum of an average rating by IDC Publishing Inc.'s bank rating service
3. Minimum ratio of equity capital to total assets of 5%
4. Maximum ratio of non-performing assets to equity of 20%

C. Collateralization - As authorized by state law, full collateralization will be required on nonnegotiable certificates of deposit and repurchase agreements or other instrument as the Treasurer requires.

## **VII. Investment Parameters**

A. Diversification - The investments shall be diversified by:

1. Limiting investments to avoid over-concentration in securities from a specific issuer or business sector, excluding U.S. Treasury securities
2. Limiting investment in securities that have higher credit risks
3. Investing in securities with varying maturities
4. Continuously investing a portion of the portfolio in readily available funds such as Public Deposit Investment Pool (PDIP) or overnight repurchase agreements to ensure that appropriate liquidity is maintained in order to meet ongoing obligations.

B. Maximum Maturities - To the extent possible, the Town shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the Town will not directly invest in securities maturing more than six months from the date of purchase.

## **VIII. Reporting**

A. Methods – The Treasurer shall prepare a cash position and investment report at least quarterly, including a succinct management summary that provides a clear picture of the status of the current investment portfolio. This management summary will be prepared in a manner that will

allow the Town to ascertain whether investment activities during the reporting period have conformed to the investment policy. The report should be available to the Selectmen and auditors. The report will include the following where appropriate:

1. Listing of individual securities held at the end of the reporting period, if applicable
2. Realized and unrealized gains or losses resulting from appreciation or depreciation by listing the cost and market value of securities over one-year duration that are not intended to be held until maturity (in accordance with GASB requirements)
3. Average weighted yield to maturity of portfolio on investments as compared to applicable benchmarks
4. Listing of investment by maturity date

B. Performance Standards – The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. A series of appropriate benchmarks shall be established against which portfolio performance shall be compared on a regular basis.

C. Statements - The market value of the portfolio shall be calculated at least quarterly and a statement of the market value of the portfolio shall be issued at least quarterly.

#### **IX. Policy Considerations**

This policy shall be reviewed on an annual basis. The individual(s) charged with maintaining internal controls shall receive copies of the policy and any changes thereto.

IN WITNESS THEREOF, this Policy is hereby approved and adopted by the  
Select Board of the Town of Sunapee, on this 2<sup>nd</sup> day of October 2023.

Adopted by: Select Board:

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Carol P. Wallace, Chair

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Suzanne Gottling, Vice Chair

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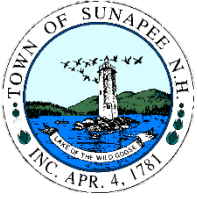
Fred Gallup, Select Board Member

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Josh Trow, Select Board Member

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Jeremy Hathorn, Select Board Member



## **TOWN OF SUNAPEE SELECTBOARD**

### **POLICIES & PROCEDURES**

#### **I. Purpose:**

This document describes the duties and methods of operation of the Sunapee Selectboard (“Board”) and provides guidelines on approaches to interfacing with the Town Manager (“Manager”), the Town of Sunapee (“Town”), its employees (“Employees”), and the public. Any RSA changes shall supersede existing Town processes. In addition, the Select Board will adhere to the Town of Sunapee Ethical Principles. This document is to be reviewed and approved as written, or revised as necessary then approved, at the first meeting of the voted board after each Town election. Any item herein, except as required by law, may be overruled on a per-occurrence basis by a majority vote of the present Board at any time. An amendment to these By-Laws may be moved at one Board meeting but shall not be voted upon until the next regularly scheduled meeting, not less than 7 (seven) days later.

#### **II. Authority:**

The Board is duly elected and derives its authority from RSA 41:8, other RSAs, and Town ordinances. The Manager derives their authority from RSA 37.

#### **III. Organization:**

The Board is a 5 (five) member Board. For purposes of process, the Board shall vote upon and elect a Chair and Vice-Chair at the first meeting following each Town election. Any vacancies shall be filled within 45 days. In the event the Chair is unable to attend a meeting or must abstain from action, the Vice-Chair shall fulfill the duties as required.

#### **IV. Powers & Duties:**

- a. Board members shall make their best effort to attend all meetings.

Adopted by the Board, on this 2<sup>nd</sup> day of October 2023.  
Last Revised/Approved: July 2, 2018



- b. Members of the Board have authority only when acting as a Board legally in session and with a quorum. The Board shall not be bound by any action or statement of any individual Board member except when such statement or action is pursuant to instructions from the Board.
- c. Given that the Town has voted to be under a Manager form of governance, duties as required under RSA 37 are to be completed by the Manager.
- d. The Chair shall preside over all meetings of the Board and perform all duties required by law. In the absence of the Chair, the Vice-Chair shall perform the duties of the chair. Any action of the Chair may be overruled by a majority vote of the board.
- e. The Board shall delegate members of the Board to serve on required committees after each Town election and may delegate members to perform other duties as agreed upon by consensus and as permitted by law.
- f. The Board shall hold standard public meetings as necessary to facilitate the business of the town. The Chair may allow, but is not required to allow, public input and/or participation during discussion of the Board at times other than public hearings or public comment. (See Section IX: Public Comment Procedures)
- g. The Board may hold non-public meetings as needed, pursuant to RSA 91-A:3. These may be distinct from a standard meeting or may be included as an item in the process of a regular meeting, in which case a recess may be called to ensure proper attendance is achieved. Non-public meetings shall generally be placed at the end of a regular meeting if they are co-scheduled, after public action. If any public action is knowingly acted upon after a non-public session, it shall be noted prior to entering non- public.
- h. Annually, the Board is responsible for evaluating the job performance of the Manager. It is the Chair's responsibility to coordinate the evaluation, including obtaining input from the other members of the Board, aggregating that information, and presenting to the Board a comprehensive draft of the evaluation document. The current seated Select Board must complete the final evaluation document prior to the next annual election. (Or prior to the Town Manager's anniversary date.)

## V. Enacted Resolution and Ordinances

**Resolutions:** An enacted resolution is an internal legislative action that is a formal statement of policy concerning matters of a special or temporary character. Selectboard action shall be taken by resolution when required by law and in those instances where an expression of policy more formal than a motion is desired. Each resolution may be

Adopted by the Board, on this 2<sup>nd</sup> day of October 2023.  
Last Revised/Approved: July 2, 2018

voted and approved on the same day on which it was introduced. Examples include recognition of an Eagle Scout, declaration of Public Works Week, support for action by the state or federal government, etc.

**Ordinances:** An enacted ordinance is a legislative act prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality. Examples include Parking Ordinance, Personnel Policy, Investment Policy, Fixed Asset Policy, Road Excavation, etc.

An Ordinance shall be introduced at a public meeting of the Selectboard. At this meeting, the Selectboard shall determine a future date for a Public Hearing, if necessary. At the second meeting, the Selectboard shall hold a Public Hearing as previously described and act upon the ordinance. The title of each ordinance shall in all cases be read prior to its passage and the Manager or other appropriate individual asked to give a summary of the ordinance, any change from prior ordinances and why the ordinance is before the Selectboard.

**Emergency Ordinances.** The Town Selectboard may, without notice or hearing, adopt an emergency ordinance citing the reason for the emergency.

## **VI. Limitations of Power and Duties:**

- a. The duties and responsibilities of the Board are set forth in Article II.
- b. By statute, the Board has no direct authority over the personnel other than the Manager.
- c. Individual Selectboard members are not prohibited from acting as an ordinary citizen of the Town by expressing personal viewpoints and opinions on municipal matters to the extent that such information is based on encounters and observations derived outside of the privileged purview of a Selectboard Member. Any viewpoints or opinions expressed shall be as a member of the public and, as not to conflict with the meeting process defined in Section VIII, the Selectboard member should relocate away from their seat for the duration of their comment and will be treated as a member of the public.

## **VII. Meeting Notice**

- a. Standard meeting scheduling shall be noticed at least one month prior. Meeting cancellations shall be noticed as soon as feasible once cancellation has been determined. Any emergency meetings shall be noticed as soon as feasible when necessary. Each meeting shall be posted in accordance with RSA 91-A.

- b. Most regular meetings of the Town of Sunapee Selectboard shall be held in the Town Hall Meeting room at 23 Edgemont Road, Sunapee, NH 03782 unless the Selectboard adjourns to another location, or the meeting is scheduled for another location and is properly noticed. At the Selectboard's discretion, online web conferencing and audio platforms such as Zoom may be utilized as an alternative to in person participation. A Selectboard Member may vote, when on Zoom, if a quorum of the public body is physically present.
- c. Meetings of the Town of Sunapee Selectboard shall be held on the 1st and 3rd Monday of each month and begin at 6:30PM, unless otherwise noticed, or unless continued to a specific time and date.

## VIII. Process

- a. **Quorum** - A quorum shall consist of three (3) members of the Board. If 3 members are absent from a meeting, no official meeting can take place and therefore no decisions can be made. Any agenda items shall be moved to the next standard meeting unless an emergency meeting is required.
- b. **Right-to-Know** - It is illegal for the Selectboard to make any decisions by use of a secret ballot or by email or in such a way that is contrary to the Right-to-Know Law. Further, Selectboard members should disqualify themselves from the Board and step down from all participation in deliberations (including voting) on any subject matter where there is a conflict of interest or if they nonetheless feel it appropriate to do so. A Selectboard member should disqualify themselves whenever they have a direct personal or pecuniary interest in the outcome of the deliberation and/or action.
- c. **Abstention** - If a Selectboard member should voluntarily abstain from voting, such action shall not count towards the tally of a vote for the purpose of determining the majority viewpoint. If a majority of attending Selectboard members abstain from a vote, no action shall be taken.
- d. **Agenda Layout** – The Manager bears the primary responsibility for coordinating and planning the agenda. The Chair has the final authority over the approved agenda, timing, schedules, and related matters. The agenda should be published at least 3 calendar days prior to the meeting, and in most cases strive to be on Thursday prior to a Monday meeting and should be included in the minutes.

- e. **Appointment Requests** - Selectboard Members wishing to place an item on the agenda must make the request to the Town Manager and Selectboard Chair before Wednesday at noon prior to a Monday meeting. Citizens may request to have items placed on the agenda and/or may seek a formal appointment with the Selectboard. Such inclusion is at the discretion of the Manager and Selectboard Chair. If approved, citizens must provide a copy of all presentation material and documentation to be included in the Board's "packet" by Wednesday at 12:00 p.m. prior to a Monday meeting. If not approved, the Manager will inform the citizen that the request was not granted.
- f. **Order of Business** - The business of all meetings of the Selectboard shall be transacted as follows; provided, however, that the Chair may, during a Selectboard meeting and with the consent of the Board, rearrange items on the agenda to conduct the business before the Selectboard more expeditiously:
  - i. Call to Order
  - ii. Review of Minutes
  - iii. Review of Items for Signature
  - iv. Appointment (s)
  - v. Public Comment
  - vi. Public Hearing (s)
  - vii. Selectboard Action
  - viii. Town Manager Report
  - ix. Selectboard Members's Report
  - x. Non-Public Session
  - xi. Adjournment
- g. **Conduct** - Meetings shall be conducted in accordance with generally accepted practices of order and decorum. In the event of dispute regarding procedural matters, Robert's Rules of Order shall serve as a guideline with a vote of the Board being the final deciding authority.
- h. **Voting** - Votes shall be by a show of hands or by a roll call. The results and method of the vote shall be recorded delineating any opposition votes, abstentions, and/or recusals.

Adopted by the Board, on this 2<sup>nd</sup> day of October 2023.

Last Revised/Approved: July 2, 2018

- i. **Reconsideration** - No action shall be considered at a subsequent meeting in the same calendar year except by majority vote of the members present and voting.
- j. **Adjournment** - A motion for adjournment will usually not be in order until after the completion of the order of business unless a motion has been made at the start of the meeting to adjourn at a specified time.

## IX. Public Comment Procedures

- a. All citizens shall have the right to speak for a period not to exceed three (3) minutes after being recognized by the Chair unless a longer period is granted.
- b. Citizens may address the Selectboard once during Public Comment. All comments must pertain to the business of the Town.
- c. The speaker shall not engage in personal attacks against citizens or public officials and shall always remain courteous and respectful.
- d. Citizens shall speak for themselves and not on behalf of other individuals, groups, or organizations who are not present unless specific permission has been granted by the Chair. Generalized accusations and innuendoes will not be permitted.
- e. The Chair may rule a citizen out of order. A citizen may be removed if they continue to be disruptive.
- f. The Selectboard and Chair may not problem solve or enter debate during Public Comment. The Chair may respond to a citizen and may put an item on a future agenda.

## X. Public Hearing Procedures

State laws and various Town bylaws require the Selectboard to hold public hearings on certain issues before an action can be taken.

- a. The Selectboard will schedule the dates for the hearing.
- b. The Chair will open the hearing by identifying the purpose of the hearing and the rules to be followed during the hearing.

Adopted by the Board, on this 2<sup>nd</sup> day of October 2023.  
Last Revised/Approved: July 2, 2018

c. The Chair may call upon the Manager or other person to describe the matter under consideration. This presentation shall be concise and to the point.

**d. Public Hearing Rules and Procedures:**

- i. Announce the sign-up sheet at the beginning of the meeting and prior to the opening of the Public Hearing.
- ii. Those interested in speaking shall sign up on the sheet provided prior to the start of the hearing. If anyone is unable to physically sign-up, they need to make the board aware of their desire to speak. Said person will be added to the queue (this includes those participating virtually).
- iii. The following rules and procedure should be read at the opening remarks of public comment:
  - 1. *Everyone must sign up to speak during the respective time of public input.*
  - 2. *Public input will be limited to one 3-minute comment per member of the public. Additional input will not be accepted by the same individual (\*even if the 3-minute time allotment was not utilized)*
  - 3. *Public input will follow the order of the sign-up sheet.*
  - 4. *There will be no questions answered by the Selectboard or Town Employees at the time of input.*
  - 5. *All input shall be concise and relevant to the Public Hearing topic.*
  - 6. *Any irrelevant or duplicative input will be prohibited during the public hearing.*
  - 7. *If an individual continuously disrupts or refuses to cede the floor, they may be asked to leave the meeting.*

## **XI. Minutes**

- a. Minutes of the Board meetings shall be kept in accordance with the provisions of RSA 91-A. At a minimum, minutes will contain the names of members present, other people participating in the meeting, a summary of the subject matter discussed, and any final decisions reached, or actions taken. Minutes shall be posted on the Town's website.

- b. The minutes of Board meetings are kept by the Selectboard and are for the Selectboard to review and approve. The public will not be allowed to amend minutes of the meetings.

## **XII. Requests for Information**

- a. Formal requests for information by Board members from the Manager, Town Counsel, Department of Revenue Administration, or the Attorney General's Office shall be made at a meeting, and only at the direction of the majority of the Board. Informal requests may be made by email to the Manager but are non-binding until acted upon at the next meeting of a quorum of the Board. Any information provided to any individual Board member shall be provided to the rest of the Board.
- b. Acting as a citizen, a member of the Board may ask a department head for information, and as a courtesy should copy the Manager (the department head will do so as they reply). The Board member may only ask for anything that any other citizen could ask for and if it falls under a right to know request the procedure for that shall be followed.

## **XIII. Conflict Resolution**

- a. **Numbers** - In situations where a conflict arises among the Board or as the Board in its interactions with another entity, full effort shall be made to come to resolution by consensus. In cases of questions on calculations or multi-option possibilities, questions and concerns shall not be placed as accusations or interrogation unless the quorum is in consensus. The Board shall attempt to ensure full discussion to resolution of all relevant questions before voting, but 2 (two) members of the Board may at any time call for a vote, and the result of the vote shall abide by Process VIII.
- b. **Personnel** - Citizens that make complaints to the Board or a member of it should be encouraged to contact the department that handles the matters that the complaint is about. Failing resolution of the issue, they should then be encouraged to contact the Manager. If they don't feel that they have reached resolution, only then the Board could bring the matter up to manager or at a meeting the citizen can request an appointment (which may or may not be non-public at the Board and Manager's discretion).

- c. **Departments** – Any requests from a department or employees thereof that are not able to be resolved by the department head or Manager shall be resolved via the Personnel Policy and/or by the majority vote of the Board, during a legal public or non-public (as necessary) meeting.

#### **XIV. Selectboard Chair's Duties**

- a. Vote as a member of the board in all actions as appropriate.
- b. Open the session at the time at which the Board is to meet by calling the members to order.
- c. Announce business before the Board as it is acted upon.
- d. As necessary, to recognize members entitled to the floor.
- e. State and put to vote all the questions which are regularly called or necessarily arise in the course of the proceedings and to announce the result of the vote.
- f. Protect the Board from annoyance, up to and including having people removed from the meeting if necessary.
- g. Assist in expediting all business in every way compatible with the rights of the members, as by allowing brief remarks when un-debatable motions are pending or by calling a brief recess to permit restoration of order or clarification of an obscure point if they think it advisable.
- h. Restrain the Board and Public when engaged in debate within the rules of order
- i. Enforce on all occasions the observance of order and decorum among the members, deciding all questions of order, unless it is preferable to submit the question for the decision of the Board.
- j. Ensure that Board's communication abide by all aspects of the NH Right-to-Know Laws.
- k. Authenticate by their signature, when necessary, all acts, orders and proceedings as directed by vote of the Board.
- l. Represent the Town at ceremonial events.
- m. Act as Board liaison to Town Counsel in any issues pertaining to the Manager.



## **XV. Violations & Repercussions**

There are no defined consequences under NH law for failure to comply with these guidelines. However, it should be noted that the remaining members of the Board may vote to publicly censure a member for repeated or egregious failures to meet these obligations. In the event that a quorum of the Board is of the opinion that one or more of the members has violated State Law, then they may vote in public session to initiate judicial removal proceedings and/or petition a court of competent jurisdiction for the imposition of such other penalties as may be allowed by law.

## **XVI. Effective Date**

These Rules of Procedure shall take effect immediately following a majority vote of the Town of Sunapee Selectboard at a regularly scheduled Selectboard's meeting.

## **Annex A: Legal Responsibilities and Annual Tasks (non-exhaustive list)**

### **Legal Responsibilities (non-exhaustive list):**

- a. Chief Executive Branch of town government
- b. Coordinates with other town elected committees as applicable
- c. Appointments on boards, committees, and other assignments
- d. Local permitting authority
- e. Special permit grant authority
- f. Set policy and propose bylaws for town meeting warrant
- g. Oversee preparation of budget with Advisory Budget Committee and Town Manager
- h. Call for town meeting and approve warrants articles for the ballot
- i. Set fees
- j. Create general rules and regulations for town operations
- k. Appoint town counsel and approve legal strategy
- l. Serve as the agent to expend as delegated by Town vote
- m. Appoint Town Manager
- n. Conduct annual review of Town Manager including review of and setting of objectives
- o. Communications to public on issues and respond to citizen concerns

### **Annual Tasks (non-exhaustive list):**

- a. Establish roles, responsibilities, and reassign liaisons as necessary
- b. Selectboard appointments to boards and committees
- c. Annual financial policy and budget plan
- d. Issue annual report
- e. Provide leadership in the development of the capital improvement program
- f. Set risk management policy
- g. Per RSA 128:3, the local board of health for each town shall meet at least once every year, and as frequently as needed, to review the state of local public health issues and concerns and provide information, as requested, to the department of health and human services, on the readiness to address relevant public health threats at the local or regional levels

## **Roberts Rules of Order – Simplified**

### **Guiding Principles:**

- Everyone has the right to participate in discussion if they wish before anyone may speak a second time.
- Everyone has the right to know what is always going on. Only urgent matters may interrupt a speaker.
- Only one thing (motion) can be discussed at a time.

A **motion** is the topic under discussion (e.g., “I move that we add a coffee break to this meeting”). After being recognized by the president of the board, any member can introduce a motion when no other motion is on the table. A motion requires a second to be considered. If there is no second, the matter is not considered. Each motion must be disposed of (passed, defeated, tabled, referred to committee, or postponed indefinitely).

### **How to do things:**

#### **You want to bring up a new idea before the group.**

After recognition by the president of the board, present your motion. A second is required for the motion to go to the floor for discussion, or consideration.

#### **You want to change some of the wording in a motion under discussion.**

After recognition by the president of the board, move to amend by

- adding words,
- striking words or
- striking and inserting words.

#### **You like the idea of a motion being discussed, but you need to reword it beyond simple word changes.**

Move to substitute your motion for the original motion. If it is seconded, discussion will continue on both motions and eventually the body will vote on which motion they prefer.

#### **You want more study and/or investigation given to the idea being discussed.**

Move to refer to a committee. Try to be specific as to the charge to the committee.

#### **You want more time personally to study the proposal being discussed.**

Move to postpone to a definite time or date.

#### **You are tired of the current discussion.**

Move to limit debate to a set period of time or to a set number of speakers. Requires a 2/3<sup>rd</sup>s vote.

#### **You have heard enough discussion.**

Move to close the debate. Also referred to as calling the question. This cuts off discussion and brings the assembly to a vote on the pending question only. Requires a 2/3<sup>rd</sup>s vote.

Adopted by the Board, on this 2<sup>nd</sup> day of October 2023.

Last Revised/Approved: July 2, 2018

**You want to postpone a motion until some later time.**

Move to table the motion. The motion may be taken from the table after 1 item of business has been conducted. If the motion isn't taken from the table by the end of the next meeting, it is dead. To kill a motion at the time it is tabled requires a 2/3<sup>rds</sup> vote. A majority is required to table a motion without killing it.

**You believe the discussion has drifted away from the agenda and want to bring it back.**

“Call for orders of the day.”

**You want to take a short break.**

Move to recess for a set period of time.

**You want to end the meeting.**

Move to adjourn.

**You are unsure the president of the board announced the results of a vote correctly.**

Without being recognized, call for a “division of the house.” A roll call vote will then be taken.

**You are confused about a procedure being used and want clarification.**

Without recognition, call for "Point of Information" or "Point of Parliamentary Inquiry." The president of the board will ask you to state your question and will attempt to clarify the situation.

**You have changed your mind about something that was voted on earlier in the meeting for which you were on the winning side.**

Move to reconsider. If the majority agrees, the motion comes back on the floor as though the vote had not occurred.

**You want to change an action voted on at an earlier meeting.**

Move to rescind. If previous written notice is given, a simple majority is required. If no notice is given, a 2/3<sup>rds</sup> vote is required.

**Unanimous Consent:**

If a matter is considered relatively minor or opposition is not expected, a call for unanimous consent may be requested. If the request is made by others, the president of the board will repeat the request and then pause for objections. If none are heard, the motion passes.

**You may INTERRUPT a speaker for these reasons only:**

- to get information about business –point of information to get information about rules–parliamentary inquiry
- if you can't hear, safety reasons, comfort, etc. –question of privilege
- if you see a breach of the rules –point of order

- if you disagree with the president of the board's ruling –appeal
- if you disagree with a call for Unanimous Consent –object

Quick Reference					
	Must Be Seconded	Open for Discussion	Can be Amended	Vote Count Required to Pass	May Be Reconsidered or Rescinded
Main Motion	√	√	√	Majority	√
Amend Motion	√	√		Majority	√
Kill a Motion	√			Majority	√
Limit Debate	√		√	2/3 <sup>rds</sup>	√
Close Discussion	√			2/3 <sup>rds</sup>	√
Recess	√		√	Majority	
Adjourn (End meeting)	√			Majority	
Refer to Committee	√	√	√	Majority	√
Postpone to a later time	√	√	√	Majority	√
Table	√			Majority	
Postpone Indefinitely	√	√	√	Majority	√

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# Clean Water State Revolving Fund (CWSRF) Pre-Application

version 2.1

(Submission #: HPT-TSV6-FFA5S, version 1)

## Details

---

Originally Started By	Suzanne Graves
Submitted	6/1/2023 (101 days ago) by Shannon Martinez
Alternate Identifier	Town of Sunapee, NHPerkins Pond, Sunapee, NH Watershed Management Plan
Submission ID	HPT-TSV6-FFA5S
Status	Issued

## Form Input

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### Applicant Contact Information

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Loan Applicant  
Town of Sunapee, NH

Loan Applicant Mailing Address  
23 EDMONT RD  
SUNAPEE, NH 03782

### Contact Information

Primary Contact

Prefix

NONE PROVIDED

First Name

Middle Name

Last Name

Shannon

NONE PROVIDED

Martinez

Title

Town Manager

Organization Name

Town of Sunapee, NH

Phone Type

Number

Extension

Business

603 763 2212

Email

manager@town.sunapee.nh.us

Business Mailing Address

23 EDMONT RD

SUNAPEE, NH 03782

Is the primary contact listed above the owner?  
Yes

Would you like to provide a secondary contact for this pre-application?  
Yes

## Secondary Contact Information

### Secondary Contact Information

**Prefix**

NONE PROVIDED

**First Name**

Suzanne

**Middle Name**

NONE PROVIDED

**Last Name**

Graves

**Title**

President

**Organization Name**

Perkins Pond Protective Association

**Phone Type**

Mobile

**Number**

508 277 2010

**Extension****Email**

suzanne.graves@me.com

## General Project Information

**Project Name**

Perkins Pond, Sunapee, NH Watershed Management Plan

**Project Location**

Perkins Pond, Sunapee, NH Watershed

**Is the pre-application for development of an Asset Management Program?**

No

**Please select your project category. Ranking criteria will be displayed based on your selection.**

Stormwater

**Please select the option below that describes your project.**

a. The project only includes planning and evaluation components.

**Please select from the list of stormwater project types those which best describe your proposed project.**

General Stormwater Management

**Brief description of the proposed project and need:**

Perkins Pond Watershed in Sunapee, NH, is experiencing significant deterioration of Perkins Pond. We are submitting a pre-application proposal for a Clean Water State Revolving Fund (CWSRF) loan to fund the development of a Watershed Management Plan. We require this so that we can reduce and remedy the deterioration of Perkins Pond in Sunapee, NH.

Perkins Pond is a 157-acre great lake within the Town of Sunapee that is used extensively for recreational purposes by members of the New Hampshire community. It has open access to the water and can be used by anyone through the State of New Hampshire Boat Ramp.

The members of the Perkins Pond Community have taken significant actions to reduce any pollution that comes into the lake. In 2009, a study was conducted (Perkins Pond, Sunapee, NH, Pond and Watershed Diagnostic Study 2009) that identified several contributing factors including potential run off from septic systems and leach fields. The Perkins Pond community undertook a multi-year effort to have a sewer system installed and final hook up of all members of the community was completed in 2015.

Since that time, our water quality has not greatly improved. In that study, watershed load was identified as the primary contributor to phosphorus to the pond and the sources and causes of that load is the focus of our desire to have a watershed plan. notably phosphorous and chlorophyll-A. (see the attached information from VLAP).

**Project Description Attachment, Optional**

NONE PROVIDED

**Comment**

A

**Please provide the date (or future date) when the authority to borrow was, or is expected to be, obtained (i.e., date of town meeting/city council approval to borrow funds).**

03/05/2024

## Estimated Timeline and Cost Information Table



Funding Type	Start Date	Completion Date	Cost (\$)
Scope, *Report Phase Engineering	03/15/2024	09/12/2025	100,000
			Sum: 100,000

**Are the cost estimates for the project supported by a document (e.g., facility plan, preliminary design, report, etc.) that is signed by an engineer?**

No

**If the cost estimate for this project is not supported by a document signed by an engineer, what is the rationale or source for the cost estimate?**

Estimated costs of watershed management in conjunction with DES and compared to other watershed management plans completed in New Hampshire to date.

**Is the amount of money you wish to borrow less than the cost estimate above?**

No

## Ranking Criteria for Stormwater Planning and Infrastructure Projects

### Category 1: Protection of Water Quality, Public Health & the Environment Project Ranking Criteria

a. Water quality impairment.

#### 1a. Waterbody Assessment Unit ID (AUID) and impaired water quality parameters.

Waterbody AUID	Impaired Parameter	How will the project address the impairment?
801060405-03	Aquatic Life Integrity 5-P Phosphorus(Total) 5M	Devise a plan to determine causes and reduce P loading to allow the waterbody to attain its designated uses. Yearly Total Load P average retention is 39.18 with overland run off as the most significant contributor. An estimated 10.09 kg P discharged from the shoreline with an estimated 41.17 kg P from the watershed. (2009 WDS).

### Category 2: Water Quality Plan

Management Plan Name	Title of Plan	Page Number	Plan Recommendation
a. NH Nonpoint Source Plan		8	The NH NPS Plan includes development of watershed management plans as a recommended activity. This project would develop such a plan.

### 3. What Green Project Reserve Project Types do you have?

b. Protection or restoration of natural hydrology, floodplains, and wetlands.

a. Disconnection of impervious cover from the stormwater drainage system.

#### GPR Certification

GPR points will not be awarded if adequate information, including reasonable estimated costs for GPR-related items, is not included in the pre-application. It is expected that any GPR-related items claimed in this pre-application will be incorporated into the design of the project.

**I have read and understand the statement above.**

Yes

#### 3a. Disconnection of impervious cover from the stormwater drainage system.

Eligible Projects	Costs (\$) for this GPR	% Project Costs
1.2-1 Implementation of green streets for either new development, redevelopment or retrofits.	5,000	5
	Sum: 5,000	Sum: 5

#### 3b. Protection or restoration of natural hydrology, floodplains and wetlands.

Eligible Projects	Costs (\$) for this GPR	% Project Costs
1.2-7 Establishment or restoration of permanent riparian buffers, floodplains, wetlands and other natural features, including vegetated buffers or soft bioengineered stream banks.	5,000	5
	Sum: 5,000	Sum: 5

#### Category 4: Sustainability

- a. Aging infrastructure.
- b. Flooding/Resiliency.
- d. Relative value to the public and environment.
- c. Local capacity.

#### 4a. How will the project address aging infrastructure?

The Perkins Pond watershed has significant aging infrastructure. Within the past 15 years, roads have deteriorated due to storm water floods and were repaired. A small portion of Perkins Pond Road is paved, with the remaining being a dirt road. The paved portion of Perkins Pond Road was replaced during a major storm approximately 12 years ago. The replacement incorporated at least four culverts that take the water from the high or hill side of the watershed and direct the water underneath the partially paved road and contributing water, sand and silt directly into the lake. (We have also found blacktop chunks in the pond, which can only come from this one segment of paved road, as the remainder of the roads surrounding the lake are not paved.) These four culverts have created at least two major tributaries into the lake which are contributing to the siltation. The culverts may not be sized correctly to ensure that the run off is treated properly.

#### 4b. How will your project address resiliency issues and obtain capacity for a community or system to proactively prepare for and recover from hazardous events?

There are currently no settling basins that allow the sand to settle before it reaches the lake. Additionally, a portion of Perkins Pond Road that was dirt road was replaced last year and not engineered to limit siltation into the lake. Again, there are no settling basins that have been effectively built to allow the road run off to settle before the water reaches the lake. Additionally, the unpaved roads around the pond are especially fragile during 'mud season' which this year lasted from December through April. Each road in the watershed has roadside ditches that were dug and are maintained by the town to carry water to the lake. Improved methods to ensure that siltation from these ditches would be an important aspect of this plan.

#### 4c. Describe the local support network and the capacity to complete the proposed project.

The Town of Sunapee is working in conjunction with the Perkins Pond Protective Association (PPPA). The Town is fully in support of the creation of a watershed management plan, as is the PPPA. A collaborative working relationship is evidenced by the work done to have the Watershed Diagnostic Study (2009) completed, the passage of a warrant article to fund the installation of a sewer system and individuals within the watershed's willingness to contribute significant funds (\$10,000-\$20,000 each, with yearly tax and water assessments) to improve the overall health of the lake. As we like to say, we are small, but mighty. Additionally members of the association stand ready to help in providing information and data to ensure that the development of a management plan is streamlined.

#### 4d. Describe the availability (access), and extent of use of the waterbody. Consider uses including, but not limited to: drinking water supply; public recreational opportunities; aquatic and terrestrial habitat benefits; and potential for increased public use and improved habitat.

Perkins Pond is readily available for public recreational opportunities. It is well known for its fishing and boating. The lake is accessible by a state boat ramp, which is currently being silted in from the run off and is becoming un-navigable. Algae blooms have become more frequent reducing the ability to safely swim; plants are growing in the areas that have become increasingly silted. The watershed is also has a snowmobile trail which because of deterioration from water events has been rerouted. The lake has an abundance of wildlife that have been observed, from bears, moose and deer, to smaller animals including beaver, mink and fox. Fowl include loons, ducks, geese and other migratory birds. And of course, the aquatic animals including turtles, fish and newts. All of this is threatened as we become increasingly eutrophic. Increased public use will come from the ability to use the boat launch, providing a means to fish, swim, kayak or canoe.

#### Is there additional information specific to the stormwater ranking questions above you would like to provide?

A majority of our roads right next to the lake are dirt/gravel and while the town has attempted to work through issues of sand going into the lake, the runoff and siltation has continued unabated.

Importantly, the boat ramp has become almost unusable because of the amount of sand and silt that has infiltrated into that area from the runoff on Perkins Pond Road. Please see the boat ramp pictures attached from 2010 and currently in 2022 that document the quantity of sand and silt coming into the lake from Perkins Pond Road and the surrounding watershed.

As increasing snow melt and storms cause major run off into the pond, we will need to make sure that there is resiliency built into any system that is built. The recommendation of ways to do this will be important to the Watershed Management Plan.

It will be important to develop a watershed management plan to determine how to best protect or restore the natural hydrology, floodplains, and wetlands in the watershed. That is unknown to us presently. Better understanding of the hydrology will help us to better manage the lake and make improvements that will improve the water quality throughout the watershed.

## Final Comments for NHDES

---

**Did you find the electronic format helpful?**

NONE PROVIDED

**Please describe the ease of filling out this form.**

Generally easy but with some confusing sections.

**Do you have any suggested improvements for the form?**

It appears that this form is targeted for design and implementation funds. We are looking for the creation of a Watershed Management Plan and some of the required fields were not applicable.

## Status History

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	User	Processing Status
5/22/2023 10:14:05 AM	Suzanne Graves	Draft
5/28/2023 12:20:31 PM	Suzanne Graves	Signing
6/1/2023 4:16:57 PM	Shannon Martinez	Submitting
6/1/2023 4:17:17 PM	Shannon Martinez	Submitted
6/1/2023 4:17:18 PM	Shannon Martinez	In Review
6/2/2023 9:50:31 AM	Kathleen A Bourret	Issued

## Processing Steps

---

Step Name	Assigned To/Completed By	Date Completed
Form in Review	Kathleen A Bourret	6/2/2023 9:50:30 AM

## Agreements and Signature(s)

---

### **Municipality**

*The information provided is true, complete, and not misleading to the best of the applicant's knowledge and belief. The applicant understands that any department determination that the applicant and the applicant's project qualify for funding from the CWSRF that is based on false, incomplete, or misleading information is subject to modification, up to and including reversal, through an adjudicative proceeding conducted in accordance with applicable provisions of Env-C 200; and The signer is subject to the penalties specified in New Hampshire law, currently RSA 641:3, for making unsworn false statements. If the applicant's authorized representative is or is acting on behalf of a listed engineer as defined in Env-C 502.10, the signature also shall constitute certification that the signer understands that the submittal of false, incomplete, or misleading information is grounds for debarring the listed engineer from the roster.*

**Signed By** Shannon Martinez on 06/01/2023 at 4:16 PM

The background image shows a harbor scene with several sailboats docked at wooden piers. In the background, there are houses, including a prominent red one, and a forested hillside under a blue sky with some clouds. A semi-transparent dark green rectangle is overlaid on the left side of the image, containing text.

October 2, 2023

Connie Sampson, HR Director

# Town of Sunapee

Board of Selectmen  
Presentation



# HR Working Group

Aaron Cartier, Water & Sewer  
Cheryl Collins, Finance  
Josh Wrobleski, Building & Grounds  
Kenny Warburton, Building & Grounds  
Michael Martell, Highway  
Neill Cobb, Police  
Sue Gottling, Select Board  
Terri Rounds, Library  
Tim White, Fire

A great team of people professionalizing our overall culture, seeking training opportunities, building a foundation for a more forward-thinking collaborative culture.



# Employee Handbook Updates

## Goals of this Presentation:

1. To approve general updates to the Employee Handbook to include items such as grammatical edits, procedural edits, EEO ~~deficit~~ **diversity**, drug and alcohol testing, updates to employee benefits, the addition of protected leave, etc.
2. To consider and approve increasing the minimum number of hours a fulltime employee is required to work from 35 to 37.5.
3. To consider and approve giving parttime employees access to bereavement leave and jury duty benefits.
4. To consider and approve adding four paid holidays to the current benefit.

# Employee Handbook Updates

## GENERAL UPDATES

- Grammatical Edits
- Procedural Edits
- EEO definition updated
- Human Resources added

## PROCEDURAL UPDATES:

- Return of Property
- Drug and Alcohol Testing is for all CDL drivers not just Highway

## ADDED BOARD APPROVED:

- Vacation –with edits
- Sick Leave Donation
- Workplace Bullying

## UPDATES TO BENEFITS:

- Health
- Dental
- Accident & Disability Insurance
- Life
- Worker's Compensation
- Aflac
- FMLA

## ADDED PROTECTIVE LEAVE:

- Maternity/Nursing Mothers
- Crime Victim/Court Leave

## SUGGESTED UPDATES TO:

- Update to the minimum number of hours a full-time employee is required to work from 35 to 37.5.
- Part-time employees to be given access to bereavement leave and jury duty benefits

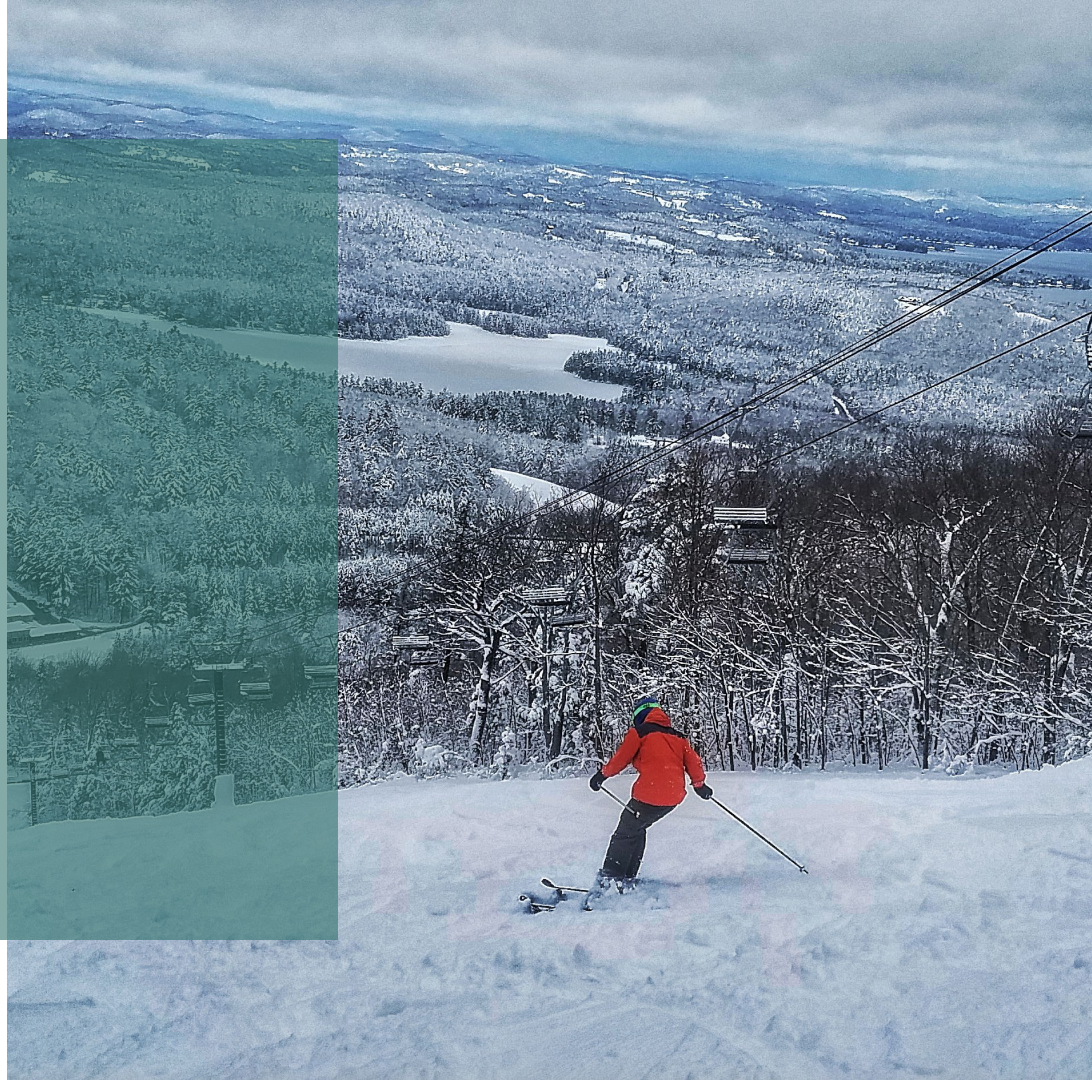


## Next Sections to Focus on:

- Sexual and Other Unlawful Harassment
- Overtime
- Sick Leave
- Discipline/Grievance
- Use of Equipment and Vehicles

## Protected Leave to add:

- Parenting Leave



# Employee Handbook Suggested Update

## Federal Holidays 2023

Date	Holiday
Monday, January 2, 2023	New Year's Day
Monday, January 16, 2023	Birthday of Martin Luther King, Jr.
Monday, February 20, 2023	Washington's Birthday
Monday, May 29, 2023	Memorial Day
Monday, June 19, 2023	Juneteenth National Independence Day
Tuesday, July 4, 2023	Independence Day
Monday, September 4, 2023	Labor Day
Monday, October 9, 2023	Columbus Day
Friday, November 10, 2023	Veterans Day
Thursday, November 23, 2023	Thanksgiving Day
Monday, December 25, 2023	Christmas Day

### The HR Working Group is recommending an addition of four Federally observed holidays.

- Holiday pay as part of the total reward that gives employers a competitive edge. It has become an expectation to offer holiday pay, without it, employers lose key applicants or even current employees.
- Mental health and work/life balance is a huge issue and discussion in the workforce for today's society. Adequate family time is very important for creating a happy, healthy workforce. Offering holiday pay allows employees that time without the worry of losing pay.

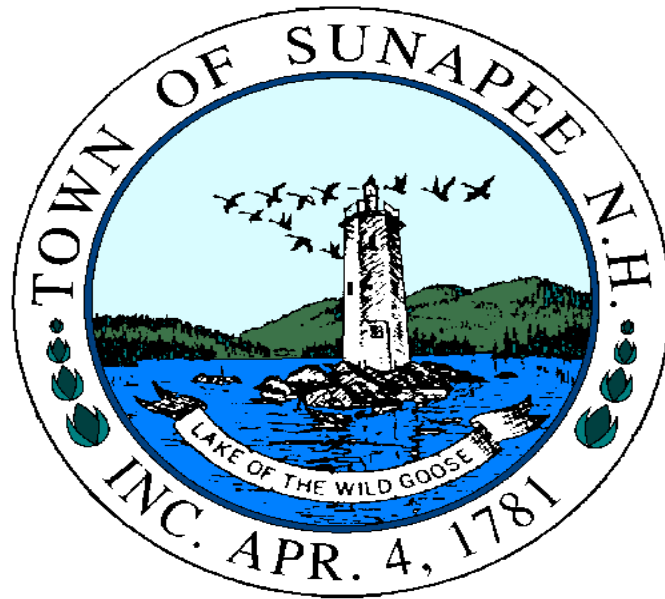
# Outcome...

1. Do you approve the general updates to the Employee Handbook to include items such as grammatical edits, procedural edits, EEO definition, drug and alcohol testing, updates to employee benefits, the addition of protected leave, etc.?
2. Do you approve increasing the minimum number of hours a full-time employee is required to work from 35 to 37.5?
3. Do you approve giving part-time employees access to bereavement leave and jury duty benefits?
4. Do you approve adding four paid holidays to the current benefit?



Thank you!





# Employee Handbook

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## **SECTION 100: Introduction**

Welcome current and new employee!

We are pleased to provide you with a copy of the Town of Sunapee Employee Handbook, which has been designed to inform employees about the standard practices, policies, and procedures of the Town of Sunapee. You should read, understand, and comply with all provisions of the Handbook. It describes many of your responsibilities as an employee and outlines the programs developed by the Town of Sunapee to benefit employees. One of our objectives is to provide a work environment that is conducive to both personal and professional growth. Every effort has been made to make this Handbook as clear and concise as possible. If you have any questions about any of the provisions in the Handbook, please contact your Department Head, the Human Resources Director, or the Town Manager.

The policies, procedures, and benefits described in this Handbook will provide you with useful guidelines. However, they are not terms or conditions of employment, and the Handbook is not an employment contract. Your continued employment for the Town of Sunapee is based on mutual consent. No employee is hired pursuant to any contract of employment with the exception of the Town Manager. Rather, your employment is at will and the Town of Sunapee may terminate your employment at any time and for any reason that the Town of Sunapee sees fit, just as you may terminate your employment with the Town of Sunapee for any reason you see fit.

It is in the best interest of the Town of Sunapee and its employees that there be flexibility in the administration of policies and procedures. Therefore, the Town of Sunapee reserves the right at any time and without notice, to change or eliminate any and/or all of the policies, procedures, or benefits described in this Handbook, as it deems appropriate. The Town of Sunapee, or its designated administrator, also has the exclusive authority to construe and interpret the terms and provisions of this Handbook and to determine all questions of eligibility for any benefits described herein.

This Handbook may be updated periodically to reflect changes made to any policy, procedure, or practice.

Sincerely,  
Town Manager and the Board of Selectmen

## **SECTION 200: General Employment Information**

### **Employment**

#### **201 General Employee Policy**

It is the policy of the Town of Sunapee:

1. To provide equal employment opportunities to employees and applicants, without regard to race, color, ethnicity/national origin, sex, sexual orientation, gender identity or expression, pregnancy, age, disability, genetic information, use of family medical leave and/or military status , except when such factor is a bona fide occupational requirement.
2. To assist employees to become increasingly effective in their performance, and, whenever possible, encourage and assist the employee to further their education in order to become more proficient in their field of employment with the Town of Sunapee.
3. To treat all employees in a manner that will encourage pride and effort which will, in turn, contribute to a capable and diligent workforce.
4. To provide the opportunity for any employee to discuss their problems or grievances openly with their supervisor and/or the Human Resources Director.
5. To furnish each employee with a complete copy of the Employee Handbook.

The overall responsibility for the administration of this plan rests with the Town Manager under policy direction from the Board of Selectmen. Department Heads are responsible for administration of this plan within their departments.

#### **202 Ethical Principles**

##### **PREAMBLE:**

It is the policy of the Town of Sunapee to uphold, promote and demand the highest standards of ethics and conduct from all of its employees and officials, whether elected, appointed or hired. The Board of Selectmen, all Town employees and all members of Town boards, commissions and committees should maintain the highest standards of personal integrity, truthfulness, honesty and fairness in discharging their public duties and never abuse their positions of trust for improper or personal gain. All Town officials, board members and employees should look to these principles for guidance.

##### **THE PRINCIPLES OF ETHICS:**

- I. THERE SHOULD BE NO CONFLICT OF INTEREST**
- II. THERE SHOULD BE A DUTY TO RECUSE**
- III. THERE SHOULD BE A DUTY TO DISCLOSE**
- IV. THERE SHOULD BE NO UNFAIR PERSONAL USE OF TOWN PROPERTY**
- V. THERE SHOULD BE NO MISUSE OF CONFIDENTIAL INFORMATION**
- VI. THERE SHOULD BE NO IMPROPER GIFTS**

## **VII. ALL SHOULD EXPECT TO RECEIVE FAIR AND EQUAL TREATMENT**

**PURPOSE:** The purpose of these principles is to establish guidelines for the ethical standards of conduct for Town officials, board members and employees.

We expect our Town officials, board members and employees:

- 1) to act in the best interests of the Town;
- 2) to disclose any personal, financial or other interests in matters affecting the Town that come before them for action;
- 3) to remove themselves from decision making if they have a conflict of interest or even the appearance of one; and,
- 4) to be independent, impartial and responsible to their fellow townspeople in their actions.

We expect the Town's decisions and policies to be made through the proper channels of government.

We expect any public position in our Town not to be used for personal gain. It is important that the public has confidence in the integrity of its government and that Town officials, board members, volunteers and employees know and understand the contents of this document and can thus have an opportunity to protect their personal reputation.

### **EXPLANATION OF THE ETHICAL PRINCIPLES:**

#### **I. There Should be No Conflicts of Interest**

Town officials, board members and employees of the Town of Sunapee should avoid conflicts of interest or even the appearance of a conflict of interest.

Town officials, board members or employees should not participate in any matter in which they, or members of their family, have a personal interest that may directly or indirectly affect or influence the performance of their duties. In such instances, they should recuse themselves from discussion and decision-making. Recusal means to remove oneself completely from all further participation in the matter in question.

Town officials, board members or employees who have been recused should immediately leave the room or should seat themselves with the other members of the public who are present. When recused they should not participate in further discussions unless they clearly state for the record that they are doing so only as a general member of the public. As a recused person, they should not deliberate or vote on the matter in question.

## **II. There Should be a Duty to Recuse in Quasi-Judicial Action**

A “quasi-judicial action” is any action where the board or committee is acting like a judge or a jury. For example, when a board or committee has a duty to notify the potential parties, hear the parties and can only decide on the matter after weighing and considering such evidence and arguments as the parties chose to lay before such a board or committee, they are involved in a quasi-judicial action. The work of the Planning and Zoning boards is largely a quasi-judicial action. Not only do Town officials, board members and employees have such a duty to recuse themselves as outlined in the section above, they should recuse themselves in a quasi-judicial action if they would not be qualified to sit as a juror in that case. For example, jurors are not qualified to sit in a case if they have advised or assisted either party in a matter being decided or are prejudiced to any degree regarding the pending matter or believe they cannot for any reason be totally fair and impartial.

## **III. There Should be a Duty to Disclose**

Town officials, board members or employees should not participate in the conduct of business on behalf of the Town or enter into discussion or deliberation of any matter without first publicly and on the record stating all dealings, interests and relationships and any other possible conflicts that may exist with the parties or the issue under consideration.

## **IV. There Should be no Unfair Use of Town Property**

No Town official, board member or employee should use town property, services or labor personally or make the same available to others, unless such use is available to other residents upon request on equal terms.

## **V. There Should be no Misuse of Confidential Information**

No Town official, board member or employee should use any confidential information acquired by virtue of that individual’s official position for personal benefit or for the benefit of any other person or business.

In addition, no Town official, board member or employee should violate the privacy of others by publicizing, gossiping or discussing confidential information acquired in the course of official duties.

## **VI. There Should be no Improper Gifts**

No Town official, board member or employee should accept a gift (or allow acceptance of such gift by a family member) from any individual, group or corporation that has or is likely to have matters pending before the Town, board, committee or commission on which the official or employee serves.

## **VII. All Should Expect to Receive Fair and Equal Treatment**

Acting in their official capacity, all Town officials, board members and employees should give each and every person fair and equal treatment. No Town official, board member or employee should, in the course of their official duties, give or deny any person special consideration, advantage or treatment as result of the person's public status, position, race, color, ethnicity/national origin, sex, sexual orientation, gender identity or expression, pregnancy, age, disability, genetic information, use of family medical leave and/or military status

### **EDUCATION:**

1. At the time that each newly elected or appointed official, board member or employee takes the oath of office, they shall receive a copy of these ethical principles.

2. The Town Manager shall hold a meeting each spring for newly elected or appointed officials, board members and employees so they may familiarize themselves with the provisions of these ethical principles.

3. It shall be the responsibility of each department head of any new employee to insure that the employee or volunteers are aware of these ethical principles.

Approved and adopted by the Board of Selectmen October 20, 2003.

William Roach  
Emma M. Smith  
Frederick C. Gallup  
Stephen W. White  
David E. Gibbens

## **203 Equal Employment Opportunity**

In order to provide equal employment and advancement opportunities to all individuals, employment decisions at the Town of Sunapee will be based on merit, qualifications, professionalism, performance, and abilities.

It is the policy of the Town of Sunapee to provide equal opportunity in employment opportunities or practices without regard to race, color, ethnicity/national origin, sex, sexual orientation, gender identity or expression, pregnancy, age, disability, genetic information, use of family medical leave and/or military status or any other characteristic protected by law, except when such factor is a bona fide occupational requirement.

The Town of Sunapee will make reasonable accommodations for qualified individuals with disabilities, which do not prevent them from performing the essential functions of the job, with or without reasonable accommodation unless, doing so, would result in an undue hardship. This policy governs all aspects of employment, including selection, job assignment, discipline, termination, and access to benefits and training.

Any employees with questions or concerns about any type of possible discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor,

Human Resources, the Town Manager. Employees can raise concerns and make reports without fear of reprisal. Following an investigation, anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

## **205 Outside Employment**

An employee may hold a position with another organization as long as they satisfactorily perform their job responsibilities with the Town of Sunapee and the outside employment creates no conflict of interest with Town of Sunapee employment. All employees will be judged by the same performance standards and will be subject to the Town of Sunapee's scheduling demands, regardless of any existing outside work requirements.

If the Town of Sunapee determines that an employee's outside work interferes with performance or the ability to meet the requirements of Sunapee as they are modified from time to time, the employee may be asked to terminate the outside employment if they wish to remain employed with the Town of Sunapee.

Outside employment will present a conflict of interest if it has an adverse impact on the Town of Sunapee, has the appearance of inappropriateness given your position as a Town of Sunapee employee and representative of the Town of Sunapee, or in some way conflicts with the performance of your regular duties.

## **207 Sexual and Other Unlawful Harassment**

The Town of Sunapee's goal is to create a workplace and a working environment that maximizes success for its employees. It is a goal of the Town of Sunapee to provide all of its employees with a work environment free of any unlawful harassment. Harassment of employees by co-workers, supervisors, managers, elected officials, customers, taxpayers, or vendors, will not be permitted, regardless of their working relationships. Reprisals for reporting harassment are also prohibited. Incidents of harassment, which are confirmed following investigation, and reprisals for reporting harassment, are serious offenses, and will be subject to discipline up to and including termination.

## **DEFINITION OF SEXUAL HARASSMENT AND HARASSMENT**

**Sexual Harassment:** Includes unwelcome sexual advances, requests for sexual favor, and any other verbal, visual, or physical conduct based upon sex when: (1) Submission to the conduct is an explicit or implicit term or condition of employment, (2) submission to or rejection of the conduct is used as the basis for an employment decision, or (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or of creating a hostile, offensive, or intimidating environment.

**Harassment:** harassment refers to, but may not be limited to:

- |         |                      |
|---------|----------------------|
| * Age   | * Veteran's Status   |
| * Race  | * Disability         |
| * Color | * Sexual Orientation |



\* National Origin  
\* Religion

\* Marital Status  
\* Gender

Examples of such harassment include, but are not limited to:

Conduct or comments that threaten physical violence, offensive or unsolicited remarks, unwelcome gestures or physical contact, display or circulation of written materials or pictures degrading to any gender, racial, ethnic, religious, or other group listed above, and verbal abuse or insults about, or directed at, any employee or group of employees because of their membership in any of the groups listed above.

Harassment may subject the Town of Sunapee and the individuals who engage in it to significant liability. Any employee who believes that he/she or others have been subjected to harassment from a co-worker, supervisor, manager, elected official, customer, taxpayer, or vendor is asked to report this conduct to: his/her supervisor, Department Head, Town Manager, and/or the Board of Selectmen. It is the policy of the Town of Sunapee to investigate thoroughly and promptly any complaint of harassment. While employees are encouraged to report instances of harassment to their supervisors or manager first, they are not required to do so.

The Town Manager, Department Head, and other designated resources either observing or receiving reports of harassment are expected to treat the issue seriously and to take appropriate steps in accordance with the Town of Sunapee's policy. The Town Manager and Department Heads are expected to use their personnel resources to assist them in this process. Investigation must be handled in the most timely and confidential manner as possible.

Employees accused of this harassment will be given sufficient information about the allegations to provide them with a reasonable opportunity to respond before any corrective action or discipline is imposed. Accused employees should not be assumed to have violated the Town of Sunapee's Harassment Policy unless and until the investigation establishes that they have done so.

If the investigation determines that an employee has violated this policy, the Town Manager and Department Heads will take prompt appropriate disciplinary action up to, and including, immediate termination of employment.

A record of any communication/warning relating to any charge of harassment is retained in the personnel file of the accused employee.

### **Employee's Role**

Any employee who believes that he/she is being harassed by anyone on the premises of the Town of Sunapee is asked to promptly take the following steps:

1. If possible and appropriate, politely but firmly address whoever is doing the harassing, state how you feel about his/her actions and request that the person cease those or similar actions immediately.
2. If the actions continue, if you believe some employment consequences may result from your confrontation, or if you feel incapable of confronting the individual directly, you may go directly to your immediate supervisor. If circumstances prohibit this response, report the behavior to the Town Manager orally or in writing, stating specific

details of the behavior you consider harassing.

3. In the case of a problem with a co-worker, the employee is asked to bring the issue to the Town of Sunapee's attention, even if the matter has been resolved between the parties, if the employee desires to put management on notice in the event of further problems.

4. If after a reasonable length of time you believe your complaint has not been resolved, go directly to the Town Manager or the Board of Selectmen for resolution of your problem. The policy of the Town of Sunapee is to listen to all complaints of harassment or sexual harassment, investigate all complaints and take disciplinary action when appropriate.

5. Discipline against harassment and/or sexual harassment will be determined at the Town's discretion depending upon the circumstances surrounding the incident, and the nature of the incident, but may include discipline up to and including immediate dismissal from employment.

### **Management's Role**

Every member of the Town of Sunapee's management is responsible for appropriately addressing any harassment or sexual harassment concern, which may occur within his/her area of authority.

1. Any complaint or observation of harassment is to receive the immediate attention of the supervisor and be reported immediately to the Town Manager or Board of Selectmen so that an investigation may be initiated.

2. Investigation of a complaint of harassment will include conferring with the parties and witnesses named by the complaining employee.

3. Because of its sensitive nature complaints of sexual harassment should be investigated with particular care and should remain, to the extent possible, strictly confidential. Ordinarily, the Town Manager will conduct this investigation.

4. Ordinarily, information concerning a complaint of sexual harassment will not be released by the Town of Sunapee to third parties who are not involved in the incident or the investigation, or to anyone within the Town of Sunapee who is not involved with the investigation, unless otherwise required by law or in connection with a lawsuit. The purpose of this provision is to protect the confidentiality of the employee, who files a complaint, to encourage the reporting of any incidents of possible harassment, and to protect the reputation of the accused employee in case the investigation does not confirm the charge of harassment.

5. If the investigation reveals that the complaint is valid, prompt disciplinary action is intended to stop the harassment immediately and to prevent its recurrence. Discipline will vary, at the Town of Sunapee's discretion, based upon the nature and circumstances of the incident, but may include discipline up to and including immediate termination of employment if appropriate.

6. In the event that a harassment complaint is made against the Town Manager, a member of the Board of Selectmen will be the investigating party. In the event that a complaint is made against a member of the Board of Selectmen, the remaining members of the Board of Selectmen shall be the investigating party.

## 209 Employee Definitions

It is the intent of the Town of Sunapee to clarify the definitions of employment classifications so that employees understand their employment classification and benefit eligibility. All employees are considered 'at-will' employees at all time.

1. Under the Fair Labor Standards Act, each employee is designated as either NONEXEMPT or EXEMPT. Nonexempt employees are paid an hourly wage and entitled to overtime pay. Exempt employees are paid a salary and work in an administrative, professional, executive, computer or outside sales roles.. An employee's exempt or nonexempt classification may be changed only upon written notification by the Town of Sunapee's Town Manager.

2. In addition to the above categories, each employee will belong to one other employment category:

.01 Regular Full-Time Employees: Exempt and non-exempt Employees who are not in a temporary or introductory status and who are assigned to a regular workweek of 37.5 or more hours per week on a continuous basis. Generally, these employees are eligible for Sunapee's benefit package, subject to the terms, conditions, and limitations of each benefit program. This includes the Town Clerk/Tax Collector, which is an elected position.

.02 Regular Part-time Employees: Employees who are not assigned to a temporary or introductory status and who regularly work an average of 20 to 34 hours a week on a continuous basis. While these employees do receive legally mandated benefits (such as Social Security and workers' compensation insurance) and prorated vacation leave, they are ineligible for the Town of Sunapee's other benefit programs.

.03 Seasonal or Temporary Employees: Employees who are hired as interim replacements, temporarily supplement the work force, or to assist in the completion of a specific project and are hired for a specified length of time or work less than 20 hours per week on a regular basis. The length of employment shall be contingent on the funding for the position and/or duration of the assignment. Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary employees retain that status unless and until notified in writing of a change. While temporary employees receive all legally mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for the Town of Sunapee's other benefit programs.

.04 Appointed Official: Any individual appointed to any Board, Committee, or Department which has official standing as part of the government of the Town of Sunapee and who has by statute, ordinance, or order of the Selectmen, the authority to take action for, or on behalf of, the Town of Sunapee. (e.g. Zoning Board of Adjustment, Recreation Committee, Conservation Commission, etc.)

.05 Volunteer: Any individual who is accepted as a volunteer for any Board, Committee, or Department of the Town of Sunapee who will be providing services,

representing the Town of Sunapee, or taking action for or on behalf of the Town of Sunapee including but not limited to volunteer members of the Fire Department to the extent that a board, committee or department of the Town of Sunapee for which the individual volunteers has in place its own rules, regulations or by-laws which govern a volunteer's hiring, discipline and/or termination, those rules, regulations or by-laws shall control.

3. Each person who assumes any of the herein defined positions shall submit a completed personal data information sheet to the Town Manager.

## **211     Introductory Period**

The introductory period is intended to give new employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The Town of Sunapee uses this period to evaluate employee capabilities, work habits, and overall performance. Either the employee or the Town of Sunapee may end the employment relationship at will at any time during or after the introductory period, with or without cause or advance notice.

All new and rehired employees work on an introductory basis for the first six (6) months after their date of hire. Employees who are promoted or transferred within the Town of Sunapee must complete a secondary introductory period of the same length with each reassignment to a new position. Any significant absence will automatically extend an introductory period by the length of the absence. If the Town of Sunapee determines that the designated introductory period does not allow sufficient time to thoroughly evaluate the employee's performance, the introductory period may be extended for a specified period.

In cases of promotions or transfers within the Town of Sunapee, an employee who, in the sole judgment of management, is not successful in the new position can be removed from that position at any time during the secondary introductory period.

Upon satisfactory completion of the initial introductory period, employees enter the "regular" employment classification.

During the initial introductory period, new employees are eligible for those benefits that are required by law, such as workers' compensation insurance and Social Security. They may also be eligible for other Town of Sunapee provided benefits, subject to the terms and conditions of each benefits program. Employees should read the information for each specific benefits program for the details on eligibility requirements for each benefit. No payment of accrued but unused sick time or personal time will be made upon separation from employment within the probationary period of a new hire.

Employment classification is not changed during any secondary introductory period that results from a promotion or transfer within the Town of Sunapee.

## **213 Performance Evaluation**

Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis. Formal performance evaluations are conducted at the end of an employee's introductory period in any new position. Discussions at this time allow the supervisor and the employee to discuss the responsibilities, standards, and performance requirements of the new position. Additional formal performance evaluations are conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths, and discuss positive, purposeful approaches for meeting goals. The performance of all employees is evaluated annually on or about the anniversary of the employee's date of hire.

## **Compensation**

### **221 Paydays**

The weekly payroll period begins at 12:01 am on Thursday and ends at midnight on Wednesday of the following week. However, any employee on the clock at midnight on a Wednesday will be paid for the completion of that shift. Each paycheck will include earnings for all work performed through the end of the previous payroll period and will be distributed each Tuesday.

In the event that a regularly scheduled payday falls on a holiday, employees will receive pay on the last day of work before the regularly scheduled payday.

Employees may have pay directly deposited into accounts of any financial institution on the Federal Reserve System if they provide advance written authorization to the Town of Sunapee. Paystubs are available online through the employee portal.

### **223 Pay Deductions**

Social security, Federal Income Tax, and Retirement deductions shall be made in accordance with Federal and State requirements based on the tax brackets and deductions as filed with Human Resources.

Other deductions such as a checking or savings accounts, etc., must be requested in writing prior to such withholding. More information is available, please contact Human Resources.

## **225 Overtime**

All employees, except those designated as exempt from the provisions of the Fair Labor Standards Act, shall be paid overtime for all hours beyond forty (40) hours during a regular workweek and if required to work on a paid holiday. The workweek will commence at 12:01 am Thursday and end at 12:00 Midnight Wednesday. Any employee on the clock at midnight on a Wednesday will be paid for the completion of that shift. Overtime will be paid at one and one-half (1-1/2) times the employee's regular hourly rate. Overtime shall be based on the number of hours compensated including sick time, vacation time, personal time, and holidays.

Example:

Thursday was a paid holiday.

Friday, Monday, and Tuesday, employee worked 8 hours each day. Wednesday the employee worked 12 hours.

Employee is paid for 40 hours at regular rate of pay, plus 4 hours at one and one-half (1-1/2) times the employee's regular hourly rate.

All non-salaried employees called in afterhours shall be paid a minimum of two hours pay.

## **227 Compensatory Time in Lieu of Overtime Pay (Non-exempt employees only)**

Upon written request of the employee and approval of the department head, employees may be granted compensatory time off in lieu of overtime payment for compensable hours in excess of 40 hours in a workweek. Such time shall be earned at the rate of one and one-half (1 1/2) hours off for each compensable hour in excess of 40 hours in the workweek for which no overtime payment is received.

A maximum of 80 hours of compensatory time may be accumulated in one calendar year. However, an employee may have no more than 40 hours available at any time. The employee must give written notice to the department head when overtime worked is to be compensated for with compensatory time. The employee must give written notice when requesting to take compensatory time off at least three (3) days in advance of leave. Time off will be granted only if it does not cause a disruption of service.

When employees terminate their employment with the Town of Sunapee, they will be paid for unused compensatory time.

The Board of Selectmen discourages accumulation and use of compensatory time off.

## **229 Merit Pay**

The Board of Selectmen has instituted a merit pay system in the form of an eighteen step plan.

**Adoption.**

The Compensation Plan shall be submitted by the Town Manager to the Selectmen for adoption. After adoption by the Selectmen, no position shall be assigned a higher salary than the maximum or lower than the minimum salary provided for the class of position unless the salary schedule for the class is changed with Selectmen approval.

### **Initial Effect.**

Employees in the classified service who are receiving less than the minimum rate for the class position which they hold, on the effective date of the Compensation Plan, shall be increased to the minimum rate of the Compensation Plan. Employees whose salaries are in excess of the maximum rate assigned to the class at which their positions are allocated shall thereafter receive the same rate but will not be eligible to receive any further increase until they come into a position which has a higher rate. If such a rate is other than an established step of the range, it shall be increased to the next established step.

### **Amendments.**

Amendments to the Compensation Plan will be recommended to the Selectmen by the Town Manager when changes in responsibility or work of classes, rates of pay, the Town's financial position and policies or other information warrant such action. Cost-of-living adjustments will be subject to action on an annual basis based on Selectmen recommendation after Town Meeting approval of current year budget.

### **Administration.**

- A. Appointment rates:
  - (1) The minimum rate of pay for a class shall normally be paid upon appointment to a position within the class. Appointment rates above the minimum rate may be paid with the approval of the Town Manager. Justification for approval will be limited to recognition of exceptional qualifications of the appointee or the lack of qualified persons at the minimum rate.
- B. Wage/salary increases:
  - (1) Salary adjustments within established ranges in the approved budget shall not be automatic but shall be based upon the merit system as recommended by the department head and approved by the Town Manager.
  - (2) All town full-time employees and regularly scheduled part-time employees may be awarded merit pay raises in the form of steps (normally one) within the appropriate labor grade, which shall primarily be based upon successful goal achievement as evidenced by the performance appraisal for the preceding anniversary year. Rarely, the Manager may award one additional step to employees demonstrating truly exceptional merit above their peers.
  - (3) Merit increases shall be effective on the first pay day following the hire date anniversary of employees. For employees who are promoted to a position on a higher labor grade, the promotion anniversary date shall be used for pay purposes rather than the hire date anniversary.
  - (4) Promotions from one job classification to another may be made by the Manager at any time, provided that an approved, funded vacancy exists. Promoted employees shall be subject to a six-month performance probation period, during which time unsatisfactory



performance may be grounds for demotion or termination of employees.

- (5) Employee performance appraisals shall be completed annually immediately prior to the hire date (or promotion date) anniversary for every employee. Newly appointed employees shall be reviewed prior to the six months anniversary and on their hire date (or promotion date) annually thereafter.

## **230 On Call Pay –**

**Police Department** - On Call duty fills the “midnight” shift which is when an officer is not actively on the street but is at home on call with a police car prepared to answer calls for service in any emergency. On Call pay will be paid at the rate of \$50.00 per shift. Approved by the Board November 18, 2019

**Water & Sewer** - “On Call” duty is assigned by the week to one employee who is outfitted with the on-call department phone. The “on call” employee will be available to answer any calls for service or respond to any emergency. On Call pay will be paid at the rate of \$100.00 per week.

**Attendance – see new policy being suggested on 10/2/23**

## **Separation**

### **251 Employment Termination**

Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. Below are examples of some of the most common circumstances under which employment is terminated:

**RESIGNATION** - voluntary employment termination initiated by an employee. Although advance notice is not required, the Town of Sunapee requests at least two weeks' written resignation notice from all employees.

**DISCHARGE** - involuntary employment termination initiated by the Town of Sunapee.

**LAYOFF** – involuntary employment termination initiated by the Town of Sunapee for non-disciplinary reasons.

**RETIREMENT** - voluntary employment termination initiated by the employee meeting age, length of service, and/or any other criteria for retirement from the Town of Sunapee employment.

Employee benefits will be affected by employment termination. All accrued and/or vested benefits that are due and payable at termination will be paid. Some benefits may be continued at the employee's expense if the employee so chooses.

### **253 Return of Property**

Employees are responsible for all property, materials, or written information issued to them or in their possession or control. All of the Town of Sunapee's property must be returned by employees on or before their last day of work to their Department Head or Human Resources. Any property not returned, including but not limited to, computers, keys, and cell phones will be charged to the employee and payment can be deducted from the employee's last paycheck.

## **SECTION 300: Benefits**

### **301 Employee Benefits**

Eligible employees of the Town of Sunapee are provided a wide range of benefits. A number of the programs (such as Social Security, workers' compensation, state disability, and unemployment insurance) cover all employees in the manner prescribed by law.

Benefits eligibility is dependent upon a variety of factors, including employee classification. Your supervisor can identify the programs for which you are eligible. Details of many of these programs can be found elsewhere in the Employee Handbook.

The Town of Sunapee currently provides various benefits to its employees depending on their category of employment. These benefits typically include the benefits summarized in this Handbook, however, the Town of Sunapee reserves the right to change, revise, or eliminate any and all of these employment benefits at any time. The Town of Sunapee, or its designated administrator, shall have the exclusive authority to determine all questions of eligibility for any benefits.

The following benefit programs are currently available to eligible employees as outlined in this Handbook: (will update the below list once handbook is approved and in order)

Auto Mileage	Benefits Continuation (COBRA)
Bereavement Leave	Military Duty Leave
Family and Medical Leave (FMLA)	Extended Unpaid Leaves of Absence
Holidays and Personal Days	Educational Assistance
Jury Duty Leave	Workers' Compensation Insurance
Life Insurance	Wellness Program
Long-Term Disability Insurance	Vacation
Medical Insurance	Sick Leave (Short-term Disability)
Pension Plan	Personal Leave

Some benefit programs require contributions from the employee, but most are currently fully paid by the Town of Sunapee.

## **Insurance**

### **311 Health Insurance**

A **full-time** employee who regularly works a minimum of 35 hours per week or more and eligible members of their family, as determined by the insurance policy, are eligible for coverage by the health

insurance in effect for Town of Sunapee. This insurance will be effective on the first of the month following completion of a full calendar month of employment. (e.g.: employee is hired on May 15th, insurance will be effective on July 1st.)

Regular part-time employees who work less than 35 hours per week are eligible to receive health benefits but are responsible for 100% of the premium.

Medical Insurance Buy-Out Program – The Town of Sunapee shall offer an annual financial incentive, in the form of a cash payment, to a full-time employee who declines health insurance coverage for which they, and their dependants, are otherwise eligible. Annual proof of other health insurance coverage for the employee and their dependants, will be required to continue the incentive plan annually. Payment amounts, as determined annually, shall be paid in an employee's paycheck throughout the plan year and shall be subject to tax laws of the Internal Revenue Service as they apply to taxable fringe benefits. Such payments shall not be subject to retirement contributions..

### **312 Dental Insurance**

A regular fulltime employee who regularly works a minimum of 35 hours per week or more and eligible members of their family, as determined by the insurance policy, are eligible for coverage by the dental insurance in effect for the Town of Sunapee. This insurance will be effective on the first of the month following completion of a full calendar month of employment. (e.g.: employee is hired on May 15th, insurance will be effective on July 1st.)

### **313 Accidents and Disability Insurance**

#### **Accident & Disability Benefit**

Full-time employees shall be provided with short- and long-term disability insurance, the cost of which shall be fully paid by the Town of Sunapee who selects the provider for the long-term disability coverage. For more information on the policy coverage please see Human Resources.

### **315 Basic Life and Accidental Death & Dismemberment Benefit**

**Full-time employees shall be provided with Basic Life and Accidental Death & Dismemberment insurance benefit equal 178% of basic annual earnings rounded the next higher \$1,000, to a maximum of \$200,000. The cost of this benefit shall be fully paid by the Town of Sunapee who selects the provider for the coverage. For more information on the policy coverage please see Human Resources.**

### **317 Workers' Compensation Insurance**

The Town of Sunapee provides workers' compensation insurance for all employees in accordance with RSA 281-A. Workers' compensation is an insurance benefit that provides medical expense and partial wage replacement payments for injuries, illnesses, and deaths that occur during the course and scope of employment. It also provides employees with job-related rights and protections.

Prompt reporting of all work-related injuries and illnesses is important and required under this policy. Any

employee who sustains an injury or contracts an illness while working, no matter how minor, must notify the employee's supervisor, department head, or Human Resources immediately if possible, and in all cases within 24 hours. The employee may be asked to complete a Notice of Accidental Injury or Occupational Disease form and provide other information needed by the Town and/or the Town's workers' compensation carrier. Prompt reporting of a workplace injury or illness is necessary not only to comply with applicable law and New Hampshire Department of Labor administrative rules, but also to help facilitate timely claim processing and compensability determinations. Importantly, while all workplace injuries or illnesses must be reported under this policy and by law, simply because an injury or illness occurs while an employee is working does not mean the employee is entitled to workers' compensation benefits.

It is important to understand workers' compensation is neither a source of leave nor an employment status. To account for an employee's absence from the workplace the employee must have leave. Employees who need to be absent from work due to work-related injuries or illnesses will be placed on FMLA leave if they are eligible for such leave. If an employee is not eligible for FMLA leave or exhausts available FMLA leave, the employee may be placed on an unpaid leave of absence and/or use accumulated paid time off if available.

### **AFLAC**

Employees have the option to obtain Aflac supplemental insurance which is 100% paid for by the employee through payroll deduction. For more information, please see Human Resources.

### **Leave**

#### **321    **Vacation** *(approved March 2023)***

Regular full-time (37.5 hours or more) and regular part-time employees scheduled to work (20-34 hours a week) are entitled to vacation with pay. Vacation accruals will be based upon the employee's standard hours for a regularly scheduled workweek.

#### **Example:**

A regular full-time employee who regularly works 40 hours per week will be paid for 40 hours for each week of vacation he/she is entitled to receive.

A regular part-time employee who regularly works 20 hours per week will be paid for 20 hours for each week of vacation he is entitled to receive.

Each employee must give their department head adequate notice prior to the time they wish to take vacation time. Final authorization to grant leave is vested in the department head. No leave will be granted if doing so affects the services of the department. Length of employment from last date of employment will determine the sequence in which an employee may select his/her vacation within their department.

Vacation time is accrued each pay cycle in accordance with the table below. Vacation time is available for use as soon as it is accrued. For new employees, accrued vacation time is available to use after the first 90 days of employment. When an employee's anniversary completes a year of employment entitling them to an additional day of vacation, the vacation accrual changes on January 1 following the

anniversary.

The maximum full-time vacation accrual balance is 240 hours. The maximum part time vacation accrual balance is 40 hours additional to the standard yearly accrual. It is the employee's responsibility to monitor balances and take time to stay under the maximum balance. Unused vacation cannot be exchanged for pay with one exception: the employee will be paid for the unused vacation at the time of separation.

Department heads may require employees to take all vacation at one time, or during a particular time of year. Such department policies shall be posted in writing.

#### **YEARS OF SERVICE VACATION DAYS**

Part Time example for regularly

scheduled 20 hours.

Full Time Vacation Accrual		
Years of Service	Accrual per Pay Cycle	Hours Per Year
0-5	1.54	80
6	1.69	88
7	1.85	96
8	2.00	104
9	2.15	112
10	2.31	120
11	2.46	128
12	2.62	136
13	2.77	144
14	2.92	152

Part Time Vacation Accrual			
Years of Service	Accrual per Pay Cycle	Hours Per Year	Max Accrual Balance
0-5	0.77	40	80
6	0.85	44	84
7	0.92	48	88
8	1.00	52	92
9	1.08	56	96
10	1.15	60	100
11	1.23	64	104
12	1.31	68	108
13	1.38	72	112
14	1.46	76	116

The Highway Director, Police Chief, Town Manager, Library Director, Town Clerk/Tax Collector, and Superintendent of Water and Sewer Department are currently entitled to receive one additional week of vacation or compensation because of extra time required to do their jobs. Request for compensation or use of vacation time must be submitted to the Town Manager no later than December 1st each year.

### 323 Holidays & Personal Days

Regular full-time employees are currently entitled to the following holidays plus four (4) personal days, with pay, during the calendar year. For new employees, the number of personal days granted shall be the same number of complete quarters left on the year at the time of hire.

Example: An employee hired August 1 will have one (1) personal day to use prior to December 31 of that year.

Personal days cannot be carried over from the previous year. Upon termination of employment, the employee will be paid for any unused personal days earned during the current year.

Example: an employee who leaves July 15<sup>th</sup>. will be paid for up to two unused personal days. Should an employee have used all four (4) personal days for the year and leave on April 1<sup>st</sup>, three (3) days will be deducted from any unused vacation days or subtracted from their final pay.

Currently, the Town of Sunapee observes the following holidays:

New Years Day	(January 1)
Birthday of Martin Luther King Jr.	(Third Monday in January)
President's Day	(Third Monday in February)
Memorial Day	(last Monday in May)
Juneteenth National Independence Day	(June 19)

Independence Day	(July 4)
Labor Day	(first Monday in September)
Columbus Day	(Second Monday in October)
Veterans Day	(November 11)
Thanksgiving Day	(fourth Thursday in November)
Day after Thanksgiving	(the Friday after Thanksgiving)
Christmas Day	(December 25)

The Town of Sunapee will grant paid holiday time off to all regular full-time employees immediately upon assignment to a regular employment classification. Holiday pay will be calculated based on the employee's straight time pay rate (as of the date of the holiday) times the number of hours the employee would otherwise have worked on that day.

Holiday pay will be granted to all regular part-time employees who regularly work an average of 20-34 hours per week on a continuous basis. Their pay shall be prorated to include the holiday at whatever hours that day would have been worked on their normal schedule. Example: Work schedule of four (4) hours per day, five (5) days per week – the holiday pay would be for four (4) hours. If the employee is not typically scheduled to work on the day that the holiday falls, the employee will not be paid for that day.

A recognized holiday that falls on a Saturday will ordinarily be observed on the preceding Friday. A recognized holiday that falls on a Sunday will ordinarily be observed on the following Monday. For any employee that is on a seven (7) day work schedule, the day on which the actual holiday falls on will be the day that the employee is credited with holiday pay.

If a recognized holiday falls during an eligible employee's paid absence (e.g., vacation, sick leave), holiday pay will be provided instead of the paid time off benefit that would otherwise have applied.

If an employee is on unpaid leave, (for example, receiving disability or workers' compensation benefits) at the time of a holiday, holiday pay shall not be paid.

Paid time off for holidays will be counted as hours worked for the purposes of determining whether overtime pay is owed.

### 325 Sick Leave

Sick leave is provided to cover an employee during illness. As such it is a privilege and not a right. Abuse of sick leave may lead to its being withheld pending further review and medical documentation by the employee.

All regular full-time employees are allowed up to a maximum of 80 hours of paid sick leave each year. Sick time will be calculated from December 1st through November 30th. In the case of new employees or employees whose service with the Town terminates, sick time will be pro-rated. Unused sick time may not be carried over to the next year.



An employee will be reimbursed for sixty (60) percent of their unused sick time remaining at the end of the sick leave year. This will be paid the second week of December, following commencement of the new sick leave year.

Eligible employees may use sick leave benefits for an absence due to their own illness or injury, to take physical or dental examinations, or to cover absences resulting from a necessity to attend to an ailing member of an employee's immediate household.

Employees who are unable to report to work due to illness or injury should notify their direct supervisor before the scheduled start of their workday if possible. The direct supervisor must also be contacted on each additional day of absence. Failure to do so within a reasonable length of time may be cause for disciplinary action. Failure to report to work without notifying a supervisor for a period of three (3) days will be considered a voluntary termination by the employee.

A doctor's certificate certifying the employee's illness and ability to return to work may be required after an absence of three (3) days.

The Town of Sunapee reserves the right to have a physical examination performed at the Town's expense of any employee whose health or physical condition impairs the employee's ability to meet job requirements.

### **Sick Leave Donation Policy**

The purpose of this policy is to establish a sick leave donation program to provide benefits eligible employees, and non-probationary employees a more extensive sick leave plan to use in the event of a non-occupational catastrophic personal or immediate family illness, injury, or temporary disability. Catastrophic illness or injury is defined as an illness or injury that requires a leave of absence from work that is anticipated for at least 10-days continuous days. A case-by-case review, by the Town Manager and Board of Selectmen, will be conducted for individuals requiring a more nuanced schedule due to the ramifications of a longer-term illness and/or recovery schedule. For more information, please contact Human Resources or see approved Board policy dated March 7, 2023.

## **327 Bereavement Leave**

Regular full- or part-time employees who need to take time off due to the death of an immediate family member should notify their supervisor immediately.

Up to three (3) days of paid bereavement leave will be provided to regular full- or part-time employees for the death of an immediate family member.

The Town of Sunapee defines "immediate family" as father, mother, spouse, son, daughter, ward, or person domiciled within the living unit. Other requests for Bereavement Leave and the number of days shall be granted at the discretion of the Town Manager.

## **329 Jury Duty**

The Town of Sunapee encourages employees to fulfill their civic responsibilities by serving jury duty when required.

A regular full- and part-time employee will be paid the difference between compensation received while serving on a jury and their regular compensation. Employees must report to work when excused by the Court from jury duty and enter their Jury Duty leave of absence into the timekeeping system. Satisfactory evidence of jury service and compensation must be presented to the Town Manager and/or Human Resources upon receipt by the employee.

### **331 Benefits Continuation (COBRA)**

The Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health insurance coverage under the Town of Sunapee's health plan when a "qualifying event" would normally result in the loss of coverage. Some common qualifying events are: resignation or termination of employment; death of an employee; a reduction in an employee's hours or a leave of absence; an employee's divorce or legal separation; and a dependent child no longer meeting eligibility requirements.

Under COBRA, the employee or beneficiary pays the full cost of coverage at the Town of Sunapee's group rates plus an administration fee.

The Town of Sunapee provides each eligible employee with a written notice describing rights granted under COBRA when the employer is notified or becomes aware of a "qualifying event". The notice contains important information about the employee's rights and obligations.

### **333 Military Duty**

A regular full-time employee who is required to meet their annual obligation, which may include two weeks a year and one weekend per month of military service, shall be paid the difference between their military compensation and their regularly scheduled Town of Sunapee compensation, if the latter is greater than the military pay. The Town of Sunapee will otherwise grant military leave as required by law.

### **335 Short Term Unpaid Personal Leave of Absence**

Unpaid personal leaves of absence of up to 30 days may be approved at the discretion of the Town Manager.

An employee on an approved unpaid leave of absence of greater than two (2) weeks per year shall have earned benefits (vacation, sick leave and personal days) protected and frozen, but during the leave of absence shall not utilize those benefits except during leave designated as FMLA leave.

Example: If a holiday falls during the unpaid leave of absence, no holiday pay shall be paid. An employee on an unpaid leave of absence may be required to pay the entire insurance premium to ensure continuity of insurance coverage during the leave.

### **337 Extended Unpaid Leaves of Absence**

The Town of Sunapee may grant employees extended leaves of absence under certain circumstances. Except as stated below, employees will not receive compensation during such an extended leave.

Employees generally are eligible to request extended leave of absence if they have completed at least one (1) year of service, or as specified by law. The granting and duration of each leave of absence and the compensation received by the employee, if any, during the extended leave will be determined by the Town of Sunapee in conjunction with applicable Town of Sunapee policy, state or federal law. The following extended leaves will be considered:

Personal Leaves of Absence: Employees may be granted a leave of absence to attend to personal matters in cases in which the Town of Sunapee determines that an extended period of time away from the job will be in the best interests of both the employee and the Town of Sunapee.

### **FAMILY AND MEDICAL LEAVE ACT LEAVE**

#### **A. Policy Statement**

The Town of Sunapee provides unpaid leaves of absence to eligible employees in accordance with the requirements of the Family and Medical Leave Act of 1993 as amended (FMLA). To be eligible an employee must have worked for the Town of Sunapee for at least 12 months and worked at least 1,250 hours during the 12-month period prior to the requested leave.

#### **B. Purpose of the Policy**

The FMLA provides eligible employees with up to 12 weeks of unpaid and/or paid leave charged to leave balances for certain personal and family medical reasons. The FMLA allows for an eligible employee to be absent from work for up to 12 weeks in a 12-month period due to their own serious health condition; the birth of a child or the placement with the employee of a child for adoption or foster care; the need to care for a family member (child, spouse, or parent) with a serious health condition; or for a military qualifying exigency. The FMLA allows an eligible employee to be absent from work for up to 26 weeks to care for a covered service member with a serious injury or illness during a single 12-month period.

#### **C. Policy Requirements and Responsibilities**

1. Eligible employees are entitled to FMLA leave in accordance with this policy.
2. Eligible employees should make requests for medical leave to Human Resources at least 30 days in advance of foreseeable events and as soon as possible for unforeseeable events.
3. Requests for leave due to serious health conditions must be supported by a certification from the appropriate health care provider. Once leave has commenced, the Town of Sunapee may require subsequent re-certification on a reasonable basis. Employees are asked to promptly

report any changes in this information to the Town of Sunapee. Employees returning from FMLA leave resulting from their own serious health condition must submit a health care provider's verification of their fitness to return to work.

4. An employee who takes leave in order to accommodate a schedule of planned medical treatment is required (subject to the approval of the appropriate health care provider) to make a reasonable effort to schedule the treatment so as not to unduly disrupt Town of Sunapee operations, production or work scheduling. The employee may be required to transfer temporarily to an alternative equivalent position that better accommodates recurring periods of leave.
5. Leave for the birth or placement of a child must be concluded within the 12 months following the birth or placement of that child.
6. Health care benefits will be continued for eligible employees during FMLA leave as if employees were continuously employed during the leave. Employees must pay their share of the premium to continue coverage in any health care plan as if the employee were not on a leave. If employees fail to return to work at the conclusion of the leave, the Town of Sunapee may recover the premiums it paid during the leave directly from the employee. The Town of Sunapee will not recover premiums, if the employee's failure to return to work is due to the continuation, recurrence or onset of a serious health condition or due to circumstances beyond the employee's control. When the employee fails to return to work because of a serious health condition, the employee will be required to provide adequate certification regarding the serious health condition resulting in the failure to return from leave in order to avoid the reimbursement obligation.
7. Employees are not entitled to accrue any seniority or employment benefits during the period of FMLA leave, nor will employees be entitled to any benefits greater than those they would have been entitled to had they not taken leave.
8. At the conclusion of the leave, the employee will be restored to his or her own job or its equivalent, including equivalent employment benefits and pay. If the initial period of approved absence proves insufficient, consideration will be given to a request for an extension of unpaid personal leave.
9. So that an employee's return to work can be properly scheduled, an employee is requested to provide the Town of Sunapee with at least two (2) weeks advance notice of the date the employee intends to return to work.
10. Compensatory time, vacation, personal and sick leave will run concurrently with FMLA. If such paid leave lasts for less than 12 workweeks, the additional workweeks necessary to meet the FMLA's 12-week obligation will be provided without compensation. The Town of Sunapee will not provide paid sick leave in any situation in which it would not normally do so.
11. Employees who sustain injuries arising out of and in the course of their employment are eligible for a leave of absence in accordance with all applicable workers' compensation laws. Any workers' compensation leave will be considered FMLA leave and will run concurrently

with the 12-workweek allotment of FMLA leave. Any disability leave where an employee receives accident and disability insurance benefits will also be considered FMLA leave and will run concurrently with the 12-workweek allotment of FMLA leave.

- D. Employees should contact Human Resources for more detailed information regarding the Family and Medical Leave Act and to discuss individual situations.

### **MATERNITY LEAVE**

Maternity leave is designated to provide eligible employees with a period of time to recover from childbirth to bond with the new family member without loss of base pay or benefits. Regular full- and part-time employees are eligible for unpaid maternity leave of absence. Unpaid maternity leave may be taken for the period of physical disability as determined by the employee's health care provider (beginning when the employee is medically determined to be disabled and ending when medically able to return to work. Employees must use their accrued compensatory, sick, vacation and personal time before taking unpaid leave under this policy.

Pregnancy is considered a serious health condition under the FMLA. If an employee qualifies, they may use FMLA to take time off when unable to work because of pregnancy or childbirth. Employees may be eligible for short-term disability benefits during their leave of absence and will be required to take FMLA concurrently with maternity leave. Employees not eligible for FMLA leave, or who have exhausted their available FMLA time, will be allowed to continue their health insurance benefits for the calendar month during which their leave begins. At month's end, the employee will be eligible for COBRA.

If an employee with known limitations related to pregnancy, childbirth, or related medical conditions is able to continue working with a reasonable accommodation, such accommodation will be provided to the employee, unless such accommodation would cause the Town an undue hardship, in accordance with the Pregnant Workers Fairness Act. Employees should contact Human Resources with accommodation requests.

Nursing mothers will be given a private location to express breast milk for up to one year after the child's birth. These breaks will be unpaid unless the employee is completely relieved of their duties with no interruption of another employee's job duties.

### **CRIME VICTIM/COURT LEAVE**

Employees may take unpaid time off from work to attend court or other legal or investigative proceedings associated with the prosecution of a crime in which the employee was a victim. For purposes of this policy, a "victim" is any person who suffers direct or threatened physical, emotional, psychological, or financial harm as a result of the commission or attempted commission of a crime.

Employees may also qualify for leave under this policy if they are part of the immediate family of a homicide victim or part of the immediate family of a child under the age of 18 or an incompetent adult who is the victim of a crime. For purposes of this policy, "immediate family" means the father, mother, stepparent, child, stepchild, sibling, spouse, civil union partner, grandparent, or legal guardian of the victim, or a person who is otherwise in an intimate relationship with an residing in the same household as the victim.

An employee needing time off under this policy should notify the Town Manager or Human Resources as far in advance as possible. The employee may be asked to submit copies of the notices of each scheduled hearing, conference, or meeting that is provided to the employee by the court or agency involved in the prosecution of the crime. Employees must comply with any requests to submit these notices, and failure to do so may result in denial of the leave of absence. The Town will maintain any such notices or records in confidence and will disclose them only on a need-to-know basis.

The employee will be notified as soon as practicable whether the leave request is granted or denied. Requests falling within the definitions will typically be granted unless the leave of absence causes an undue hardship on the Town. For purposes of this policy, an “undue hardship” means a resultant significant difficulty and/or expense. In determining whether an undue hardship may exist, the employee’s department head will be consulted, and consideration of required tasks, the current size of operation, and the employee’s position will determine the need for the employee’s presence to complete the required work.

Leave taken under this law is unpaid, however, the employee must use accrued compensatory, vacation, personal and sick time prior to taking unpaid leave.

## **Retirement**

### **341 Retirement Plan**

Immediately upon employment, each regular (including introductory status) full-time employee, must join the State of New Hampshire Retirement System for employees and contribute the required percentage of their gross wages as determined by the Legislature. The Town of Sunapee also contributes its required payment toward the NH Retirement System for employees.

Regular full-time employees are also eligible to participate in the ICMA Retirement Corporation's retirement system. However, the Town of Sunapee will not contribute to this retirement system on behalf of employees, with the exception of the Town Manager, if they choose to participate in the ICMA Retirement system instead of the State Retirement System.

## **Educational Assistance**

### **351 Educational Assistance**

The Town of Sunapee encourages its employees to further their knowledge as it relates to their position with the Town of Sunapee. As such, the Town of Sunapee encourages employees to attend conferences and participate in continuing education programs. The Town of Sunapee may participate in the cost of sending employees to conferences, may provide time off from duties to attend conferences and training, and may also participate in the cost of continuing education in situations where an activity will contribute to an employee's professional development as a Town of Sunapee employee. In each case the decision of whether or not the Town of Sunapee will participate and to what extent, shall be the Town Manager’s. The Town of Sunapee will not participate in the cost of conferences or continuing education until an employee has accrued six months of service with the Town of Sunapee, unless approved by the Selectmen.

## **SECTION 400: Discipline/Grievance**

### **401 Discipline**

In order to operate smoothly, properly and efficiently, and for the protection of all employees, the Town of Sunapee has implemented certain rules, regulations, policies, and procedures. Many of these items are contained in this Handbook. Additionally, from time to time, the Town of Sunapee may inform you of a new or additional rule, regulation, policy, or procedure. If you violate any of these rules, regulations, policies, or procedures you will be subject to disciplinary action.

The list of grounds for discipline in this Handbook cannot include all situations that may arise. The Town of Sunapee reserves the right to discipline or discharge employees for other reasons not set forth in this Handbook or in any other publication including such actions as the Town of Sunapee determines are contrary to its interests, whether or not the incident is listed in this Handbook or any other publication as one which may result in disciplinary action. More over, nothing herein affects the right of the Town of Sunapee to discharge an employee without cause because, as noted earlier, all employees are at-will employees.

Discipline may include verbal reprimand, written reprimand, suspension, or dismissal. The type of discipline administered and the notice given will be determined at the Town of Sunapee's discretion by the nature and circumstances of the violation. The schedules of discipline outlined herein are merely offered as guidelines.

A. Verbal Reprimand: An individual employed by or serving the Town of Sunapee, may be verbally reprimanded by a Department Head, the Town Manager, or the Board of Selectmen for any violation of Town of Sunapee or Department rules, regulations, policies, or procedures. A written record of the employee's reprimand will normally become a part of the employee's record.

B. Written Reprimand: Written reprimands may be used in cases of repeated minor violations and for all other violations. A written reprimand may be appealed to the Town Manager upon written request to the Department Head. A copy of all written reprimands will be provided to the employee and will be entered into the employee's personnel record.

Written reprimands may be issued for violations including but not limited to: Failure to  
report within 48 hours to supervisor known injuries occurring  
while employed by or serving the Town of Sunapee.

C. Suspension: An individual may be suspended from employment or service with the Town of Sunapee for serious violation of Town of Sunapee or Department rules, regulations, policies, or procedures. The individual is entitled to a hearing concerning such action before the Town Manager and/or the Board of Selectmen, with the right of appeal to the courts as provided by law. Individuals may be suspended without pay for violations of rules, regulations, policies or procedures, including but not limited to:



1st Offense:

- \* Purposefully damaging Town of Sunapee or private property.
- \* Insubordination.
- \* Failure to report for duty or other forms of absenteeism.
- \* Sleeping on duty.
- \* Unacceptable performance.
- \* Failure to comply with safety regulations.

Chronic or repeated minor violations including, but not limited to:

- \* Repeated tardiness or absence from work.
- \* Violation of departmental uniform or dress rules.
- \* Misuse of Town of Sunapee equipment.

D. Authority to Suspend: All Department Heads, and any authorized subordinate supervisor may temporarily suspend, with pay, any individual employed by, or serving that department, for violations of the Town of Sunapee or Department policies, procedures, rules, regulations, or when necessary to protect the safety of the employee, the Town of Sunapee or the public. Department heads and supervisors may require that the individual surrender any Town of Sunapee property in his/her possession during the suspension.

An individual may be suspended without pay by the Town Manager. Such action shall be by written notice signed by the Town Manager and the Department Head and, where appropriate, shall contain a written statement of the basis for such action.

E. Dismissal: All employees remain, at all times, at-will employees. An individual may be dismissed immediately from employment or service with the Town of Sunapee for serious or chronic violations of Town of Sunapee or Department rules, regulations, policies, or procedures, or for violation of specific provisions so designated, including, but not limited to:

- \*Theft of Town of Sunapee property while working for the Town of Sunapee.
- \*Conviction of any felony.
- \*Reporting for duty under the influence of alcohol or controlled or illegal drugs.
- \*Falsification of official documents.
- \*Violation of safety rules and regulations.

F. Authority to Dismiss: An individual may be dismissed from employment or service with the Town of Sunapee by written order of the Town Manager. Such order shall include notice of said individual's right to a Hearing of the dismissal before the Board of Selectmen and the right of appeal to the courts as provided by law.

## **403 Grievance**

Any employee who believes that he/she has received inequitable treatment because of some condition

of his/her employment, may personally appeal for relief from that condition through the following steps:

- A The employee shall identify the grievance orally to the immediate supervisor in an informal meeting within 30 calendar days after the event or action occurred.
- B The Department Head will give an oral response to the employee within five (5) business days following the informal meeting.
- C If the employee is unsatisfied with the proposed resolution he/she may submit a formal grievance, in writing, within five (5) business days of the oral response. The written grievance shall include, but not be limited to, the exact nature of the grievance and the specific relief sought by the employee.
- D The Department Head shall return a written response to the employee within five (5) business days of the receipt of the employee's formal grievance.
- E If unsatisfied, the employee may appeal the decision of the Department Head to the Town Manager within five (5) business days. The Town Manager will meet with the employee, Department Head, and appropriate witnesses.
- F The Town Manager will respond to the employee's grievance within five (5) business days.
- G The final arbitrator of any disputed grievance will be the Town of Sunapee Board of Selectmen.

## **SECTION 500: Safety and Health**

### **501 Safety**

To assist in providing a safe and healthful work environment for employees, customers, and visitors, the Town of Sunapee has established a workplace safety program. This program is a top priority for the Town of Sunapee. Its success depends on the alertness and personal commitment of all.

The Town of Sunapee provides information to employees about workplace safety and health issues through regular internal communication channels such as supervisor-employee meetings, bulletin board postings, memos, or other written communications. Employees are expected to regularly check all postings.

Employees and supervisors receive periodic workplace safety training. The training covers potential safety and health hazards and safe work practices and procedures to eliminate or minimize hazards.

Each employee is expected to obey safety rules and to exercise caution in all work activities.

Employees must immediately report any condition they believe to be unsafe to the appropriate supervisor. Employees who violate safety standards, cause hazardous or dangerous situations, or fail to report or, where appropriate, remedy such situations, may be subject to disciplinary action up to and including termination of employment.

In the case of accidents that result in injury, regardless of how insignificant the injury may appear, employees shall immediately notify the appropriate supervisor. Such reports are necessary to comply

with laws and initiate insurance and workers' compensation benefits procedures.

### **503 Smoking**

In keeping with the Town of Sunapee's intent to provide a safe and healthful work environment, smoking in the workplace is prohibited except in those locations that have been specifically designated as smoking areas. In situations where the preferences of smokers and nonsmokers are in direct conflict, the preferences of nonsmokers shall prevail.

This policy applies equally to all employees, customers, and visitors.

### **505 Security Inspections**

The Town of Sunapee wishes to maintain a safe work environment that is free of firearms, other weapons, explosives, or other improper materials. To this end, the Town of Sunapee prohibits the possession, transfer, sale, or use of such materials on its premises and in Town of Sunapee vehicles, except an employee may have hunting weapons locked in their private vehicle on Town of Sunapee premises when they expects to be using them soon or has just been using them for hunting. Pocket knives, e.g. jackknife, may be carried by an employee. An employee, if approved by their supervisor may carry other knives. The Town of Sunapee requires the cooperation of all employees in administering this policy.

Desks, lockers, and other storage devices may be provided for the convenience of employees but remain the sole property of the Town of Sunapee. Accordingly, they, as well as any articles found within them, may be inspected by any agent or representative of the Town of Sunapee, on reasonable grounds, at any time, either with or without prior notice.

### **507 Use of Equipment and Vehicles**

Equipment and vehicles essential in accomplishing job duties are expensive and may be difficult to replace. When using Town of Sunapee equipment and vehicles, employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety requirements, and guidelines.

Please notify the supervisor if any equipment, machines, tools, or vehicles appear to be damaged, defective, or in need of repair. Prompt reporting of damage, defects, and the need for repairs could prevent deterioration of equipment and possible injury to employees or others. The supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment or vehicles used on the job.

The improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles, as well as excessive or avoidable traffic and parking violations, can result in disciplinary action, up to and including termination of employment.

### **508 Use of Wireless Communication and/or Electronic Devices in Vehicles**

1. Employees shall not operate cell phones, electronic devices capable of providing voice or data communication, or any other electronic devices while operating a Town owned vehicle, and/or while in the performance of Town business and operating any vehicle, except when using such devices in the hands-free mode.
2. This shall apply to Town owned/issued devices, or devices that are owned by the employee while conducting any and all Town business.
3. Employees shall not initiate and/or receive calls, or use cell phones, GPS, tablets, iPods, iPads, or other devices that require data entry while driving except when absolutely necessary during an emergency as provided by law. (NH RSA 265:79-c)
4. If an employee must initiate or receive a call, text message or other communication from an electronic device that is not hands-free, they shall drive to a safe location (i.e. a designated text stop), stop the vehicle prior to activating the device, and shall remain there until the communication is completed.
5. A violation of this policy may result in disciplinary action up to and including termination of employment. Disciplinary action taken shall be consistent with the Town of Sunapee, Personnel policy.
6. Employees who are charged with traffic violations resulting from the use of any electronic device while driving will be solely responsible for all liabilities that result from such actions.

#### Major Points of RSA 265:79-c

No use of handheld electronic devices capable of providing voice or data communication while driving or temporarily halted in traffic for a stop sign or traffic signal or other momentary delays. This includes cell phones, GPS, tablets, iPods, iPads, or other devices that require data entry.

- Emergency calls to 911 or other public safety agencies will be allowed.
- Bluetooth or other hands-free electronic devices will be allowed.
- One hand non-cellular 2-way radio use will be allowed.
- Teen drivers under the age of 18 will not be allowed to use any electronic devices (handheld or not) except to report an emergency. Anyone violating this will be subject to penalties and license suspension or revocation.

**Adopted May 18, 2015**

### **509 Drug and Alcohol Use**

It is the Town of Sunapee's desire to provide a drug- and alcohol-free, healthful, and safe workplace. To promote this goal, employees are required to report to work and maintain an appropriate mental and physical condition to perform their jobs in a satisfactory manner.

While on the Town of Sunapee premises and while conducting business-related activities off the Town of Sunapee premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The use of prescribed drugs by the individual for whom the drug is prescribed and, in the measure, combination and quantity prescribed, is permitted on the job. However, if the use of any drug, including a prescription drug used under the direction of a physician, impairs an employee's ability to perform the essential functions of the job effectively and in a safe manner, it is in the best interest of the employee, their co-workers and the Town of Sunapee that the employee be relieved of their responsibilities while their performance is impaired.

Violations of this policy may lead to disciplinary action, up to and including immediate termination of

employment, and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences.

Employees with questions or concerns about substance dependency or abuse are encouraged to use the resources of the Employee Assistance Program (EAP) through the health insurance carrier. Employees may also wish to discuss these matters with their supervisor or Human Resources to receive assistance or referrals to appropriate resources available to them in the community.

Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take unpaid time off to participate in a rehabilitation or treatment program. Leave may be granted if the employee agrees to abstain from use of the problem substance; abides by all the Town of Sunapee policies, rules, and prohibitions relating to conduct in the workplace; and if granting the leave will not cause the Town of Sunapee any undue hardship. A written agreement will be prepared outlining the conditions of the employee's return to work. Rehabilitation is the responsibility of the employee.

Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify the Town of Sunapee of a criminal conviction for drug-related activity occurring in the workplace. The report must be made within five (5) days of the conviction. Failure to notify the Town of Sunapee will result in appropriate disciplinary action up to and including discharge.

Employees with questions on this policy or issues related to drug or alcohol use in the workplace may raise their concerns with their supervisor, the Town Manager or Human Resources.

## **511 Drug Testing**

The Town of Sunapee is committed to providing a safe, efficient, and productive work environment for all employees. Using or being under the influence of drugs or alcohol on the job may pose serious safety and health risks.

To help ensure a safe and healthful working environment, job applicants and employees may be asked to provide body substance samples (such as urine and/or blood) to determine the illicit or illegal use of drugs and alcohol. Refusal to submit to drug testing may result in disciplinary action, up to and including termination of employment.

The Employee Assistance Program (EAP) provides confidential counseling and referral services to employees for assistance with such problems as drug and/or alcohol abuse or addiction. It is the employee's responsibility to seek assistance from the EAP prior to reaching a point where their judgment, performance, or behavior has led to imminent disciplinary action. Participation in the EAP after the disciplinary process has begun may not preclude disciplinary action, up to and including termination of employment.

## **513 Mandatory Drug and Alcohol Testing**

In order to comply with the mandate of the United States Department of Transportation, and to provide a safe, drug- and alcohol-free work environment, all employees who are required to hold a commercial driver's license (CDL) will be required to submit to drug and alcohol screens in accordance with the Federal Rules and Regulations on Alcohol and Controlled Substance Testing. The use, possession, sale or transfer of illegal drugs, on or off the job, will be cause for termination.

As outlined in the Federal Motor Carrier Safety Regulations Title 49 CFR Part 382 of the U. S. Department of Transportation, CDL drivers will be tested.

Refusal to participate in an alcohol or drug screening, whether selected randomly or for cause, will result in immediate termination.

The use of illegal drugs or alcohol on or off duty by employees can impair their ability to perform tasks that are critical to proper performance and can result in the potential for accidents while on duty and a threat to public safety.

The drinking of alcoholic beverages during working hours is strictly prohibited. The consumption of illegal substances by employees in any amount before or during working hours is strictly prohibited. If an employee reports to work under the influence of drugs or alcohol, consumes drugs or alcohol while on duty, or refuses to submit to a drug or alcohol test, disciplinary action will be taken; which, because of our type of work, will be termination.

Drugs that will be tested for are alcohol, cocaine, marijuana, cannabinoids, amphetamines, opiates and any other drugs deemed appropriate by the New Hampshire Department of Transportation. Testing will be done through the Winnepesaukee Drug Consortium at a location of their choosing. The Consortium will pick from a pool of names quarterly to satisfy testing requirements. Names will be sent to the employer designate and the employer will notify the employee. The employee will then proceed to the site and be tested.

A Medical Review Officer (MRO) will review and interpret screen results and notify the driver of positive results prior to notifying the Town Manager and/or Human Resources.

When a sample is taken, it is split with both bottles sent to the lab. One is used for the test; the other will remain sealed and stored. In the event of a positive test, the MRO will attempt to contact the driver to give him an opportunity to discuss the findings and examine legitimate medical explanations that could result in a positive result.

The driver will also have 72 hours to have the split specimen sent to another DHHS certified lab for re-testing. After certifying that the tests are either positive or negative, the MRO will notify the employer designee. Results of the tests will be kept in strict confidence and retained in the driver's record for five (5) years. Information contained in the file will not be released without written permission of the driver, unless otherwise required by law.

Drug testing will be done for pre-employment, random, post-accident, reasonable suspicion and return to work and/or follow-up as outlined in Federal Motor Carrier Safety Regulations Title 49 CFR Part 382.

Consequences for positive drug and alcohol testing will consist of immediate dismissal. Refusal to submit to a test will be treated as a positive test. We reserve the right to test for drugs and alcohol either in blood, breath or urine.

## **SECTION 600: Miscellaneous Personnel**

### **Information**

#### **601 Access to Personnel Files**

The Town of Sunapee maintains a personnel file on each employee. The personnel file includes such information as the employee's job application, resume, records of training, documentation of performance appraisals and salary increases, and other employment records.

Personnel files are the property of the Town of Sunapee, and access to the information they contain is restricted. Generally, only supervisors and management personnel of the Town of Sunapee who have a legitimate reason to review information in a file are allowed to do so, unless otherwise required by law.

Employees who wish to review their own file should contact the Town Manager. With reasonable advance notice, employees may review their own personnel files in the Town of Sunapee's offices and in the presence of an individual appointed by the Town of Sunapee to maintain the files.

#### **603 Medical Information**

Medical information on individual employees is treated confidentially. The Town of Sunapee will take reasonable precautions to protect such information from inappropriate disclosure.

Managers and other employees have a responsibility to respect and maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information is subject to disciplinary action, up to and including termination of employment.

#### **605 Employment Reference Checks**

To ensure that individuals who join the Town of Sunapee are well qualified and have a strong potential to be productive and successful, it is the policy of the Town of Sunapee to check the employment references of all applicants.

Any requests for references regarding current or former employees are to be referred directly to the Town Manager or Human Resources.

#### **607 Telephone Use**

Employees may be required to reimburse the Town of Sunapee for any charges resulting from their personal use of the telephone.

To assure effective telephone communications, employees should always use the approved greeting and speak in a courteous and professional manner. Please confirm information received from the caller, and hang up only after the caller has done so.

#### **609 Personal Data Changes**



It is the responsibility of each employee to promptly notify the Town of Sunapee of any changes in personal data. Personal mailing addresses, telephone numbers, number and names of dependents, individuals to be contacted in the event of an emergency, educational accomplishments, and other such information should be accurate and current at all times. If any personal data changes, notify Human Resources.

### **611 Rest and Meal Periods**

Employees are entitled to one break of not more than 15 minutes to be taken either in the morning or afternoon at the supervisor's discretion. An unpaid lunch period of one-half hour will be taken as scheduled for their lunch break, or as established by the department head and approved by the Town Manager. Lunch periods are a period of rest, and no employee shall be allowed to work through their lunch period unless their Department Head or the Town Manager gives prior approval.

### **613 Employment Applications**

The Town of Sunapee relies upon the accuracy of information contained in the employment application and/or resume, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in the Town of Sunapee's exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

### **615 Residency**

All regular full-time employees of the Highway, Police, and Fire Departments must establish a residence within 20-minutes response time to their respective department building no later than one year after the date of employment. Highway Foreman, Buildings & Grounds Director, and the Building & Grounds Foreman must have an established residency within a 40-minute response time to their respective department buildings. Due to the nature of the position, the Chief of Police is required to be a Town of Sunapee resident following the introductory period.

### **617 Solicitation**

Solicitations of employees on the premises of the Town of Sunapee are strictly prohibited at all times.

This prohibition applies to both employees and outsiders during working hours.

The Town of Sunapee recognizes that employees may have interest in events and organizations outside the workplace. However, employees may not solicit or distribute literature concerning these activities during working time. (Working time does not include lunch periods, or other periods in which employees are not on duty.)

In addition, the posting of written solicitations on Town of Sunapee bulletin boards is restricted. These bulletin boards are intended for the display of important work-related information, and employees should consult them frequently for:

Employee announcements  
Internal memoranda

Job openings  
Workers' Compensation insurance information

## **619    Courtesy & Treatment of Citizens by Town Employees and Agents**

**Purpose:** To establish the Town of Sunapee's Policy regarding the treatment of citizens or visitors by individuals employed by or serving the Town of Sunapee, concerning verbal communication, written communication, and demeanor; and to promote courteous and meaningful communication between citizens and their public servants.

**Policy -** It is the policy of the Town of Sunapee to:

- A. Protect the rights of all persons having dealings with the Town of Sunapee regardless of the relationship between the individual and the employees/agents of the Town of Sunapee.
- B. Accord equal treatment to any person regardless of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability or political philosophy.
- C. Require employees and agents of the Town of Sunapee to be friendly and respectful communicating with any person.

**Guidelines -** Employees shall:

- 1. Maintain a courteous and professional demeanor when dealing with the public.
  - 2. Avoid the use of obscene, derisive, or threatening language or behavior except as necessary in furtherance of law enforcement, protection of one's self or a third party.
- D. Authorize employees or agents of the Town of Sunapee to terminate communication and/or service to any citizen or visitor who uses obscene, derisive or threatening language or behavior towards such employee provided however, such incidents shall be immediately reported to the employee's supervisor. The foregoing shall not apply to law enforcement officers, fire fighters, emergency medical service workers or any employee actively engaged in protection of persons or property. This policy is not intended to restrict in any manner any employee, agent, or citizen from pursuing appropriate criminal or civil legal action in any event when obscene, derisive or threatening language or behavior constitutes a violation of law or a tort.

**Enforcement:** Violation of this policy by an individual employed by or serving the Town of Sunapee may result in a verbal reprimand, written reprimand, suspension without pay or dismissal depending on the nature of the incident. Repeat offenses may also result in dismissal.

### **Workplace Bullying Policy**

The Town of Sunapee defines bullying as repeated, health-harming mistreatment of one or more people by one or more perpetrators. It is abusive conduct that includes: threatening, humiliating, or intimidating behaviors; work interference/sabotage that prevents work from getting done; and verbal abuse. Such behavior violates Town of Sunapee's Code of Ethics, which clearly states that all employees will be treated with dignity and respect. If you feel you are being bullied, contact Human Resources. For more information on this policy, see the full Board Approved policy dated 8/9/2021.

## **621 Personal Appearance**

Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the professional image the Town of Sunapee presents to customers and visitors.

During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, employees will not be compensated for the time away from work.

Consult your supervisor or department head if you have questions as to what constitutes appropriate attire.

## **Recycling**

### **631 Recycling**

The Town of Sunapee supports environmental awareness by encouraging recycling and waste management in its business practices and operating procedures. This support includes a commitment to the purchase, use, and disposal of products and materials in a manner that will best utilize natural resources and minimize any negative impact on the earth's environment.

Special recycling receptacles have been set up to promote the separation and collection of the following recyclable materials at the Town of Sunapee:

- |   |                |   |                      |
|---|----------------|---|----------------------|
| * | Computer paper | * | Glass                |
| * | Plastics       | * | Corrugated cardboard |
| * | Aluminum       |   |                      |

The simple act of placing a piece of paper, can, or bottle in a recycling container is the first step in reducing demand on the earth's limited resources. Success of this program depends on active participation by all of us. Employees are encouraged to make a commitment to recycle and be a part of this solution.

The Town of Sunapee encourages reducing and, when possible, eliminating the use of disposable products. Source reduction decreases the consumption of valuable resources through such workplace practices as:

- |   |   |   |                              |
|---|---|---|------------------------------|
| * | Posting memos for all employees           | * | Eliminating fax cover sheets |
| * | Reusing paper clips, folders, and binders | * | Minimum packaging            |
| * | Reusing packaging material                | * | Computerized business forms  |
| * | Turning off lights when not in use        | * | Two-sided photocopying       |

Whenever possible, employees of the Town of Sunapee are encouraged to purchase products for the workplace that contain recycled or easily recyclable materials. Buying recycled products supports recycling and increases the markets for recyclable materials.

By recycling, the Town of Sunapee is helping to solve trash disposal and control problems facing all of us today. If you have any questions or new ideas and suggestions for the recycling program, contact your supervisor.

**EMPLOYEE ACKNOWLEDGMENT FORM**

The Employee Handbook describes important information about the Town of Sunapee, and I understand that I should consult my Department Head, the Town Manager or Human Resources regarding any questions not answered in the Handbook. I have entered into my employment relationship with the Town of Sunapee voluntarily and acknowledge that there is no specified length of employment. Accordingly, either the Town of Sunapee or I can terminate the relationship at will, with or without cause, at any time, so long as there is no violation of applicable federal or state law.

Since the information, policies, and benefits described here are necessarily subject to change, I acknowledge that revisions to the Handbook may occur at any time and without notice, except to the Town of Sunapee's policy of employment-at-will. Such changes may be communicated through official notices or in other manners, and I understand that revised information may supersede, modify, or eliminate existing policies. Only the Board of Selectmen of the Town of Sunapee has the ability to adopt any revisions to the policies in this Handbook.

Furthermore, I acknowledge that this Handbook is neither a contract of employment nor a legal document. I have received the Handbook, and I understand that it is my responsibility to read and comply with the policies contained in this Handbook and any revisions made to it.

I also acknowledge that the Handbook I received contains the Sunapee CDL Drug and Alcohol Testing policy.

---

EMPLOYEE'S NAME (TYPED OR PRINTED)

---

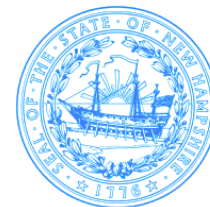
EMPLOYEE'S SIGNATURE

---

DATE



The State of New Hampshire  
**Department of Environmental Services**



**Robert R. Scott, Commissioner**

September 28, 2023

Shannon Martinez  
Sunapee Town Manager  
23 Edgemont Road  
Sunapee, NH 03782

Re: CWSRF Planning Loans – Perkins Pond Watershed Management

Dear Ms. Martinez:

Congratulations your project has been selected for funding! By submitting a pre-application for a Clean Water State Revolving Fund (CWSRF) loan to develop a Stormwater Planning Project, you have taken a step toward creating a planning project that will address stormwater conveyance and treatment needs, and consider solutions that promote energy efficiency, water quality, climate resiliency and/or flood resiliency. Funding assistance is available in the amount shown below.

Applicant	Project Name	Estimated Project Cost*	CWSRF Principal Forgiveness Amount
Sunapee	Perkins Pond Watershed Management	\$100,000	\$100,000

\*Does not include interest which will be calculated at time of repayment.

Loan forgiveness for these CWSRF loans for planning projects is available as long as the following important steps are taken:

1. **Project Consultation:** Contact your NHDES Project Manager Katie Zink at [Katherine.e.zink@des.nh.gov](mailto:Katherine.e.zink@des.nh.gov) 271-8861 to set up a time to discuss the project, **no later than January 17, 2024**.
2. **Authority to Borrow:** Communities must obtain the authority to borrow the full amount of the loan, including the principal to be forgiven. For New Hampshire towns, this requires putting the full amount of the loan on a resolution/warrant article for approval at town meeting. NHDES recommends that the resolution/warrant article be checked for completeness and appropriateness by the city/town counsel. You may also reach out to the Department of Revenue Administration with questions. For New Hampshire Municipal Association (NHMA) members who are seeking assistance with drafting warrant articles that will employ the State Revolving Fund as a funding source they can contact the NHMA Legal Advisory Service.

**3. Qualifications-Based Selection (QBS) Procurement Process:**

Planning projects require professional services, and the loan recipient must issue a Request for Qualifications (RFQ) to select the most qualified consulting firm. The RFQ does not consider cost as a selection criterion. After the most qualified consulting firm has been identified, the loan recipient and the consulting firm will attempt to negotiate a fair and reasonable price for the services provided. If an agreement cannot be reached, the loan recipient may move to the next most qualified consulting firm(s) until an agreement can be reached. If the loan recipient is already working with a consultant that was selected using the QBS process, the loan recipient must provide certification that the selected firm was hired using the QBS process.

**4. Standard Engineering Contract:** The standard engineering contract, [Engineering Report Phase Contract for Professional Services for Treatment Works](#), must be approved before project work can begin.

**5. Work Scope Approval:** Prior to submitting a loan application, a DRAFT planning project work scope must be submitted to the NHDES Project Manager to ensure compliance with the minimum requirements of the program. A quality assurance document may be required. Software and equipment purchases, laboratory analysis expenses and equipment rentals must follow the current CWSRF procurement process. The DRAFT work scope and Standard Engineering Contract should be submitted concurrently to the Project Manager. The [CWSRF Stormwater Planning Guidance Document](#) outlines these requirements. Work cannot begin until both the work scope and Standard Engineering Contract have been APPROVED by the NHDES Project Manager.

**6. NHDES Coordination:** At a minimum NHDES must attend a kick-off meeting, a mid-level progress update meeting, a wrap-up meeting, and quarterly project progress meetings. In lieu of quarterly project progress meetings an informal update can be submitted electronically or a combination thereof. These meetings should be noted in the work scope. NHDES requests to be notified in advance of other meetings relative to the project. All draft and final documents must be submitted to NHDES.

**7. Loan Application:** A completed loan application should include the approved scope of work and pre-approved engineering contract. The [application form and instructions](#) are available on the NHDES website.

- Loan applications are due by June 30, 2024.
- NHDES encourages early applications. Applications may be submitted after September 1, 2023.

*Note: Failure to follow all of the procedural requirements listed above may result in loss of NHDES loan funding assistance. If you are unable to complete the above steps by the loan application deadline you must submit a new pre-application to be considered in a future year's funding round.*

Please contact the individuals below with questions about the planning program:

Katie Zink at [Katherine.e.zink@des.nh.gov](mailto:Katherine.e.zink@des.nh.gov) or (603) 271-8861 for work scope, engineering contract and general project questions.

Kathie Bourret [Kathleen.Bourret@des.nh.gov](mailto:Kathleen.Bourret@des.nh.gov) or (603) 271-2902 or

Beth Malcolm [Beth.Malcolm@des.nh.gov](mailto:Beth.Malcolm@des.nh.gov) or (603) 271-2978 for loan administration questions.



We look forward to working with you on this exciting project.

Sincerely,

A handwritten signature in dark ink, appearing to read "Deborah Loiselle". The signature is fluid and cursive, with the first name "Deborah" being more prominent than the last name "Loiselle".

Deborah Loiselle, Stormwater Coordinator  
NH Department of Environmental Services  
Watershed Assistance Section  
29 Hazen Drive, PO Box 95, Concord, NH 03302-0095  
Tel (603) 271-1352

Cc: Beth Malcolm, Grants Management Administrator  
Dennis Greene, Planning and Design Section Supervisor  
Kathie Bourret, CWSRF Federal Provisions Administrator  
Katherine Zink, Watershed Grant Coordinator  
Suzanne Graves, President Perkins Pond Protective Association

**STATE OF NEW HAMPSHIRE**

**SUPREME COURT**

**2023 Term**

**Docket No. 2023-0189**

**APPEAL OF ELIZABETH HOEKSTRA AND PETER HOEKSTRA**

**PLAINTIFFS'/APPELLANTS' BRIEF  
for  
ELIZABETH HOEKSTRA AND PETER HOEKSTRA**

**Pursuant to RSA 679:15, RSA 541:6 and Rule 10  
from the New Hampshire Housing Appeals Board**

Elizabeth Hoekstra and Peter Hoekstra  
By their attorneys  
Schuster, Buttrey & Wing, P.A.  
By: Barry C. Schuster, Esq. - Bar # 2280  
PO Box 388, 79 Hanover Street  
Lebanon, NH 03766  
603-448-4780  
*barry@ivylegal.com*

Oral argument to be presented by:  
Barry C. Schuster

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## QUESTIONS PRESENTED

1. Where the Town of Sunapee Zoning Ordinance permits a “travel trailer [to] be used for temporary sleeping quarters for not more than 90 days per 12-month period” and where the Town acknowledged that the Appellants “remain free to sleep in the trailer, or allow a friend, family member, or even a stranger to sleep in the trailer, for up to 90 days in a 12-month period, and they may receive compensation for that temporary use,” did the Housing Appeals Board err in finding that the Appellants may not use the travel trailer for temporary sleeping quarters for not more than 90 days for compensation?

Motion for Rehearing

2. Did the Housing Appeals Board err in stating that the temporary sleeping accommodations offered by the Appellants were “transient” and therefore not permitted by the Town?

Motion for Rehearing

3. Does the decision of the Housing Appeals Board violate the terms of the Sunapee Zoning Ordinance by prohibiting an activity specifically permitted by the Ordinance?

Motion for Rehearing

## **STATUTES and ORDINANCES IN THE CASE**

### **Town of Sunapee Zoning Ordinance Section 3.40**

(m) Travel Trailers, which include, but are not limited to, camper trailers, motor homes, recreational vehicles, tent trailers and truck campers, are permitted subject to the following restrictions:

1) The owner of a travel trailer may store up to two (2) such trailers on his/her property in as inconspicuous a location as possible;

2) A travel trailer may be used for temporary sleeping quarters for not more than 90 days per 12-month period unless a Certificate of Compliance is issued. Sewage disposal must be in compliance with New Hampshire Water Supply and Pollution Control regulations or approved by the Sunapee Water and Sewer Department if on municipal sewer;

3) All travel trailers used for temporary sleeping quarters must be in compliance with all other provisions of this ordinance including building setbacks...

### **RSA 541:6**

Within thirty days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the decision on such rehearing, the applicant may appeal by petition to the supreme court.

### **RSA 679:15. Appeal**

Decisions of the board may be appealed to the supreme court by any party in accordance with the provisions of RSA 541 as from time to time amended.

### **RSA 674:16,V.**

In its exercise of the powers granted under this subdivision, the local legislative body of a city, town, or county in which there are located unincorporated towns or unorganized places may regulate and control accessory uses on private land....

## **STATEMENT OF THE CASE**

Peter Hoekstra and Elizabeth Hoekstra reside at 25 Maple Street in the Town of Sunapee, Sullivan County, New Hampshire. They maintain a travel trailer in their backyard.

On June 13, 2022, the Town zoning administrator notified the Hoekstras that the rental of their travel trailer for short-term occupancy was not permitted by the Town. On June 29, 2022, the Hoekstras appealed that administrative decision. On July 19, 2022, the Sunapee zoning board of adjustment denied the Hoekstras' administrative appeal. On August 10, 2022, the Hoekstras filed a request for rehearing and on September 1, 2022, the zoning board denied the request for rehearing.

On September 22, 2023, the Hoekstras appealed the zoning board's decision to the Housing Appeals Board which issued an order on January 30, 2023, affirming the zoning board's decision. The Hoekstras filed a Motion for Rehearing on February 21, 2023, and the Town filed an Objection to Motion for Rehearing on February 27, 2023. In its Objection, the Town stated that "[t]hey, or any other property owners with a travel trailer, remain free to sleep in the trailer, or allow a friend, family member, or even a stranger to sleep in the trailer, for up to 90 days in a 12-month period, and they may receive compensation for that temporary use." On March 6, 2023, the Housing Board issued an Interim Order, suspending its prior Order. On March 17, the Housing Appeals Board "UNSUSPENDED and REINSTATED" its January 30, 2023 Order. The Hoekstras appeal the decision of the Housing Appeal Board. RSA 541:6; RSA 679:15.

## STATEMENT OF THE FACTS

Peter Hoekstra and Elizabeth Hoekstra live at 25 Maple Street in the Town of Sunapee, Sullivan County, New Hampshire. HAB 5.<sup>1</sup> Their home is located in the Village Residential District (VR) in the Town. Appendix p. 20. They have a travel trailer in their backyard. *Id.* The location and maintenance of the trailer complies with the sewage disposal and setback provisions of the 2022 Sunapee Zoning Ordinance in effect at that time. HAB 6.

The Sunapee zoning ordinance permits travel trailers on one's property. Section 3.40 of the Sunapee Zoning Ordinance states:

- (m) Travel Trailers, which include, but are not limited to, camper trailers, motor homes, recreational vehicles, tent trailers and truck campers, are permitted subject to the following restrictions:
  - 1) The owner of a travel trailer may store up to two (2) such trailers on his/her property in as inconspicuous a location as possible;
  - 2) A travel trailer may be used for temporary sleeping quarters for not more than 90 days per 12-month period unless a Certificate of Compliance is issued. Sewage disposal must be in compliance with New Hampshire Water Supply and Pollution Control regulations or approved by the Sunapee Water and Sewer Department if on municipal sewer;
  - 3) All travel trailers used for temporary sleeping quarters must be in compliance with all other provisions of this ordinance including building setbacks....

Appendix pp. 21-22.

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<sup>1</sup> References to the Certified Record of Appeal provided by the Housing Appeals Board are numbered HAB 0000xx. For convenience, the zeros preceding the page numbers are omitted.

The Court Record also contains a paper copy of the Certified Record of the Sunapee Zoning Board, which pages are numbered from 1 to 251. Pages from the zoning board's Record referenced herein are included in the Appendix to this Brief and identified as Appendix p. \_\_\_\_.



The Hoekstras have allowed their travel trailer on their owner-occupied property to be used for temporary sleeping quarters for no more than 90 days per calendar year. HAB 6. The travel trailer complies with the sewage disposal regulations and with all building setbacks. HAB 6. The Hoekstras also charge a fee to the people who have stayed in the travel trailer. *Id.*

Although the Town has permitted another property owner to maintain a travel trailer for rental on their property, Appendix pp. 18 - 19, on June 13, 2022, the zoning board administrator wrote to the Hoekstras that “if you are renting the travel trailer you are in violation of the Town of Sunapee’s Zoning Ordinance.” Appendix p. 3. On June 29, 2022, the Hoekstras appealed the zoning administrator’s decision. Appendix p. 5. The zoning board denied the appeal on July 19, 2022, stating,

For CASE #ZBA22-14: SEEKING AN APPEAL FROM AN  
ADMINISTRATIVE DECISION RELATING TO THE  
INTERPRETATION AND ENFORCEMENT OF THE ZONING  
ORDINANCE, SECTION 3.40, PROVIDES A TRAVEL TRAILER MAY  
BE USED FOR TEMPORARY SLEEPING QUARTERS FOR NOT  
MORE THAN 90 DAYS PER 12-MONTH PERIOD UNLESS A  
CERTIFICATE OF COMPLIANCE IS ISSUED. SEWAGE DISPOSAL  
MUST BE IN COMPLIANCE WITH NEW HAMPSHIRE WATER  
SUPPLY AND POLLUTION CONTROL REGULATIONS OR  
APPROVED BY THE SUNAPEE WATER AND SEWER  
DEPARTMENT IF ON MUNICIPAL SEWER DECISION OF THE  
ZONING ADMINISTRATOR DATED JUNE 13, 2022 TO BE  
REVIEWED. 25 MAPLE STREET  
PARCEL ID: 0133-0104-0000  
Has been DENIED

Appendix p. 14.

On August 10, 2022, the Hoekstras filed their request for a rehearing which the zoning board considered at its meeting on September 1, 2022. Appendix pp. 15-16. The zoning board denied the rehearing request. The decision stated:

Section 3.40(m)(2) of the ordinance states that a travel trailer “may be used for temporary sleeping quarters for not more than 90 days per 12-month period unless a Certificate of Compliance is issued.” It does not say that a travel trailer may be rented for transient occupancies. The board therefore determined after its hearing on July 19, 2022, that the use is not permitted.

Appendix p. 20.

## **SUMMARY OF THE ARGUMENT**

The express language of the Town of Sunapee Zoning Ordinance permits travel trailers to be used for temporary sleeping quarters for “not more than 90 days per 12-month period.”

As a use permitted in all of the Town’s zoning districts, the travel trailer on the Hoekstras’ home property is subject to and complies with the additional requirements set forth in Section 3.40 of the Town’s Zoning Ordinance.

The Reliance on “Vacation” and “Transient” Use in the Housing Board’s Decision Is Erroneous and unsupported by the Record.

The Town has admitted that the Hoekstras “or any other property owners with a travel trailer, remain free to sleep in the trailer, or allow a friend, family member, or even a stranger to sleep in the trailer, for up to 90 days in a 12-month period, and they may receive compensation for that temporary use.”

The decisions of the Sunapee zoning board and the Housing Appeals Board are unreasonable and incorrect as a matter of law.

## ARGUMENT

### 1. Standard of Review

Our review of the HAB's decision is governed by RSA chapter 541... We will not set aside the HAB's order unless we are satisfied, by a clear preponderance of the evidence, that it is unjust or unreasonable. The HAB's factual findings are presumed to be *prima facie* lawful and reasonable. When reviewing the HAB's findings, our task is not to determine whether we would have found differently or to rough the evidence, but, rather, to determine whether the HAB's findings are supported by competent evidence in the record ... When, as here, the HAB relied upon the record and made no independent factual findings, our review is limited to determining whether the record supports the HAB's decision.

*Appeal of Chichester Commons, LLC* 175 N.H. 412, 416 (2022).

The record and the language of the Sunapee Zoning Ordinance do not support the decision of the Housing Appeal Board or the Sunapee zoning board. The decision of the Housing Appeals Board is contrary to the express language of the 2022 Sunapee Zoning Ordinance, contradicts the stated position of the Town, and is unlawful and unreasonable.

### 2. The Sunapee Zoning Ordinance Permits Travel Trailers

The interpretation of a zoning ordinance is a question of law and requires the Court to determine the intent of the enacting body. *Working Stiff Partners, LLC v. City of Portsmouth*, 172 N.H. 611, 615 (2019). The Court uses “traditional rules of statutory construction” and “construe] the words and phrases of an ordinance according to the common and approved usage of the language but where the ordinance defines the terms in issue, those definitions will govern.” *Id.*, at 615-616.

The parties all acknowledge that the Town of Sunapee 2022 Zoning Ordinance is a permissive ordinance, which “prohibits] all uses that are not expressly permitted, or incidental to uses so permitted, in the district in which a given property is located. Section

4.20, Sunapee Zoning Ordinance, Appendix p. 27. *See also, Working Stiff Partners*, at 616. The Sunapee Zoning Ordinance sets forth the traditional types of uses in Article IV of the Ordinance. Among the uses permitted in all zones in the Town are “accessory uses.” Appendix pp. 23-26. The right of the Hoekstras to maintain a travel trailer on their home property, which has not been questioned (Appendix p.10, line 311), is a customary and usual use incidental and subordinate to the residential use of the property. Appendix p. 28 “Accessory Uses.”

The Ordinance also includes “Additional Requirements” in Article III of the Ordinance. Within Article III, Section 3.40 provides that keeping a travel trailer on one’s property is, nevertheless, subject to certain “additional requirements” that limit the use and occupation of travel trailers, and states as follows:

(m) Travel Trailers, which include, but are not limited to, camper trailers, motor homes, recreational vehicles, tent trailers and truck campers, are permitted subject to the following restrictions:

- 1) The owner of a travel trailer may store up to two (2) such trailers on his/her property in as inconspicuous a location as possible;
- 2) A travel trailer may be used for temporary sleeping quarters for not more than 90 days per 12-month period unless a Certificate of Compliance is issued. Sewage disposal must be in compliance with New Hampshire Water Supply and Pollution Control regulations or approved by the Sunapee Water and Sewer Department if on municipal sewer;
- 3) All travel trailers used for temporary sleeping quarters must be in compliance with all other provisions of this ordinance including building setbacks...

Appendix p. 21-22.

The Town argues and the decision of the Housing Appeals Board indicates that the Sunapee Zoning Ordinance is a “permitted use” ordinance and only those uses that are listed as permitted uses in section 4.10 of the Ordinance are permitted and that Section

4.20 prohibits all other uses. HAB 51-52. The Board and Town also argue that Section 3.40 does not create additional uses since it is titled “Additional Requirements” and not “additional permitted uses.” Town Objection to Motion for Reconsideration. HAB 65.

The Board’s decision and the Town’s argument overlook the fact that accessory uses are permitted in all zones in the Town and the maintenance of a travel trailer is a “use on the same lot that is customarily associated with, and incidental and subordinate to, the principal use of the lot.” “Accessory Uses” Sunapee Zoning Ordinance. Appendix p. 28. The ownership and maintenance of a travel trailer is a common adjunct to the ownership of one’s property recognized by the Town’s Zoning Ordinance. Like having a boat on one’s property as is common in Sunapee which is located on a lake, or motor vehicles, keeping a travel trailer at one’s home is a customary and usual accessory use and ownership of a consumer good. *Gaucher v. Cold Springs RV Corp.*, 142 N.H. 299, 302 (1997) (travel trailer is a consumer good). Although the keeping on of a travel trailer on one’s property is not listed among the Section 4.10 “uses,” Section 3.40(m) would be unnecessary were keeping a travel trailer not an accessory use to one’s home property.

While accessory uses are “permitted by right” in all of the zoning districts described in Section 4.10 of the Ordinance, the Town has elected to impose some limits on accessory uses and has included those limitations in Section 3.40 as authorized by RSA 674:16,V. That statute authorizes a municipality to enact zoning regulations and specifies certain ways that municipalities may regulate land uses. Section V of RSA 674:16 specifically refers to the regulation of accessory uses:

In its exercise of the powers granted under this subdivision, the local legislative body of a city, town, or county in which there are located unincorporated towns or unorganized places may regulate and control accessory uses on private land....

Section 3.40 of the Sunapee Zoning Ordinance is such a provision that regulates and controls accessory uses on private land. Thus, if one intends to maintain a travel trailer as an accessory use on one’s property, the “additional requirements” stated in

Section 3.40(m) of the Ordinance apply. Any other reading of that section of the Zoning Ordinance, as has been argued by the Town, would render Section 3.40 superfluous. The clear and unambiguous language of Section 3.40 is that if one is to maintain a travel trailer on one's property as an accessory use, one may do so only as long as the "additional requirements" of Section 3.40 are satisfied.

Unlike the zoning ordinance in *Working Stiff Partners* which specifically excludes transient occupancies in dwelling units, *Working Stiff Partners*, 172 N.H. at 617, the Sunapee Zoning Ordinance places no limitation on whether the use of the travel trailer for "temporary sleeping quarters" may be occupied on a short-term or longer-term basis. The only "additional requirements" imposed on the maintenance of travel trailer are those included in Section 3.40(m)(2) of the ordinance that restrict occupancy to no more than 90 days within a 12-month period, and require septic compliance and compliance with building setbacks. The Zoning Ordinance also place no limits on the renting of one's property.

The right of the Hoekstras to maintain the travel trailer on their property has never been questioned. Appendix pp. 10, 15. The only objection raised by the zoning administrator, the zoning board and the Housing Appeals Board was that payment was charged for the use of the travel trailer. *Id.* Neither the Town nor the Housing Appeals Board has questioned the maintenance of the travel trailer on the owner occupied property and, as stated below, the Town has admitted that renting is, in fact, permitted.

### **3. Reliance on "Vacation" and "Transient" Use in the HAB's Decision Is Erroneous**

The Housing Appeals Board's attempts to support the zoning board's decision by distinguishing "temporary" accommodation and "transient" accommodation - an attempt which is erroneous. In its incorrect focus on those terms, the Housing Appeals Board claims that the Hoekstras' argument "bypasses Sections 4.10 and 4.20 of the Ordinance" and that the Hoekstras are seeking to conduct a new use, namely a transient

accommodation. Order HAB p. 54. The Housing Board, however, fails to recognize or address that maintaining a travel trailer on one's home property is an accessory use expressly permitted by Section 4.10 of the Zoning Ordinance.

The Housing Appeals Board and the Town also claim that the Hoekstras seek to utilize Section 3.40 to conduct a new use - that is incorrect. That section does not create a new use, be it a transient occupancy or a temporary occupancy. Rather, that section establishes a limit on the length of occupancy in a travel trailer maintained on one's property, occupancy which is specifically permitted.

Section 3.40(m) of the Zoning Ordinance permits the occupancy of a travel trailer for up to "90 days per 12-month period." No restriction exists in the Ordinance that limits the type of occupancy - whether for vacation or temporary housing. Nothing in the Ordinance requires that occupancy be for only a day, or one week, or one a month, or for even the full 90 days. The Housing Board's decision further assumed, incorrectly, that offering the travel trailer for sleeping accommodations was for "short-term vacation rental for transient use." HAB p. 55. The Court in *Kudrick* stated that "[we, as opposed to the municipality, can no more add a durational requirement to a residential occupancy than we can to a restaurant or retail occupancy." *Town of Conway v. Kudrick*, Docket# 2022-0098. That same reasoning applies here. The travel trailer is available for temporary accommodation for any person desiring, or even in need of, housing for any temporary period of less than 90 days. The Housing Appeals Board's effort to distinguish transient from temporary is misleading in that it provides no basis to determine when the use of the travel trailer passes from transient to temporary, or in reverse.<sup>2</sup> The Board also incorrectly assumes that the use is limited to "vacation rental" which implies that a rental for a "non-

---

<sup>2</sup>. The only use of the word "transient" in the Sunapee Zoning Ordinance occurs in the definitions of "bed & breakfast, tourist homes, inns, lodging & boarding" and "hotel and motel." Appendix pp. 28, 30. The former exist in an owner occupied residence with meals served to guests and the latter prohibit cooking facilities in the hotel/motel rooms. Neither of these definitions apply to the Hoekstras' travel trailer.



vacation” use would be permissible. Just as a durational requirement is inappropriate, a distinction between vacation accommodation and a non-vacation use is equally unsustainable and unreasonable.

4. **The Town Admits That Renting a Travel Trailer Is Permitted.**

The Housing Board notes that the Town claims that there is a “material distinction between transient sleeping accommodations and temporary sleeping quarters.” HAB p.55. However, despite that statement in the Board’s order, the Town has made it clear that the renting, *per se*, of the travel trailer is not a violation of the Ordinance. In the Town’s Pre-Hearing Memorandum it submitted to the Housing Appeals Board, the Town states that,

The town has not prohibited the applicants from renting their trailer; it has prohibited their renting it as a short-term vacation rental....  
No one has said that “renting, as an activity,” is prohibited. Renting is not an activity - it is a financial relationship, and the Ordinance does not concern itself with financial relationships. It is correct, as the applicants have argued, that the Ordinance does not generally distinguish between owning and renting a property.

HAB pp. 41-42; Appendix pp. 35-36.

The Town repeated this approval in its Objection to Hoekstras’ Motion for Reconsideration, where the Town stated,

[The Hoekstras], or any other property owners with a travel trailer, remain free to sleep in the trailer, or allow a friend, family member, or even a stranger to sleep in the trailer, for up to 90 days in a 12-month period, and they may receive compensation for that temporary use. They are merely prevented from using the trailer as a short-term lodging business that is the functional equivalent of a hotel.

HAB p. 66; appendix p. 38.

The definitions in the Zoning Ordinance make clear that the use of the travel trailer is not a “hotel” since the Zoning Ordinance defines “hotel” as a  
building or group of buildings providing sleeping accommodations for

persons on transient basis. Meals may be served to guests but cooking facilities are not allowed in individual rooms.

Appendix p. 30.

The Town also sought to classify the travel trailer as a “tourist home” even though the definition of a “tourist home” requires rooms in a single family dwelling “with meals served to guests only,” neither of which occurs here. Appendix pp. 4, 28.

More appropriate to describe the Hoekstras’ travel trailer is the definition of a “dwelling unit” which is defined as,

One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure. For the purpose of this definition, an independent housekeeping establishment includes the following minimum attributes: space devoted to kitchen facilities for the storage, preparation and consumption of food (including counters, cabinets, appliances, and a sink for washing dishes), space for one or more bedrooms for sleeping, and a bathroom with a tub and/or shower.

Appendix p. 29.

The Hoekstras’ travel trailer has a kitchen, bedroom, bathroom and living area, for which the Hoekstras offer it “for rental or lease.” Appendix pp. 6-7.

If, as the Town acknowledges, the Hoekstras may offer the use of the trailer for sleeping accommodations and receive compensation for that use, then what remains of any objection by the Town? The Ordinance is clear that accessory uses are permitted subject to the limitations set forth in Section 3.40. No objection has ever been presented to the Hoekstras for having the travel trailer on their property and maintaining that travel trailer on their property or that having a travel trailer on their property is not an accessory use to the primary residential use of their property. Any claim by the Town to the contrary is belied by the fact that the Town has previously approved the rental of a travel trailer. Appendix pp. 18 - 19. As for the renting of temporary accommodations, the zoning board’s Record includes nearly 100 pages of Airbnb rentals in the Town. Zoning Board

Certified Record pages 92 - 182.<sup>3</sup>

The Hoekstras have complied with Section 3.40 of the Ordinance which imposes limitations on their use of the travel trailer, prohibiting it from being used for sleeping accommodations for more than 90 days per 12-month period. The Town has admitted that receiving compensation for such use is permitted. The decision of the Housing Appeals Board is erroneous in that it contradicts the language of the Zoning Ordinance and the Town's stated position that receiving compensation for the use of the travel trailer for temporary sleeping quarters for not more than 90 days per-12 month period is permitted.

### **CONCLUSION**

The only basis of the zoning board's decision was that renting a travel trailer was not permitted under the Ordinance. The zoning board acknowledged that travel trailers are permitted throughout the town and only the Hoekstras' rental of their travel trailer was not permitted. The Housing Appeals Board upheld that decision relying on the incorrect assumption that the trailer was used only for "short-term vacation rental for transient use." HAB p. 55.

Maintaining a travel trailer on one's property is a permitted use, one accepted by the Town. The only limits on such use are stated in Section 3.40. The Town acknowledges that the Hoekstras may receive compensation for the use of their trailer. That is consistent with the Zoning Ordinance which imposes no limits on renting one's property.

The decision of the Housing Appeals Board is unreasonable and erroneous and should be reversed. The decision of the Sunapee zoning board is unreasonable and illegal and should be reversed.

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<sup>3</sup> Due to the volume of these pages that contain advertisements for Airbnb rentals in Sunapee, they are not included in the Appendix but the pages may be reviewed in the paper copy of the ZBA Certified Record provided to the Court by the Housing Appeals Board.

### **REQUEST FOR ORAL ARGUMENT**

The plaintiffs, Elizabeth Hoekstra and Peter Hoekstra, request that Barry C. Schuster, Esq., be allowed to present their oral argument before the Court.

I further certify, pursuant to Rule 16(3)(I), that the appealed decisions are in writing and appended to the brief.

Respectfully submitted:  
Elizabeth Hoekstra and Peter Hoekstra  
By their Attorneys:

September 27, 2023

By: /s/ Barry C. Schuster  
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### **CERTIFICATION OF SERVICE**

I, Barry C. Schuster, certify that on this 27<sup>th</sup> day of September 2023, I filed the foregoing Brief with the New Hampshire Supreme Court by using the NH e-filing system and caused a true copy of the foregoing Brief to be served on Cordell Johnston, Esq., counsel for the Town of Sunapee, by means of the court's electronic filing system.

/s/ Barry C. Schuster  
Barry C. Schuster, Esq. #2280

### **CERTIFICATE OF COMPLIANCE**

I, Barry C. Schuster, hereby certify that Plaintiffs-Appellants' brief complies with the word limitation prescribed by Rule 16(11) of the Supreme Court Rules, contains 3,538 words, excluding parts of the brief exempted by Sup. Ct. R. 16(11). This brief also complies with the typeface and type style requirements of Sup. Ct. R. 16(11), and has been prepared in font size 13, type style Times New Roman, with a line space setting of 1.5.

September 27, 2023

/s/ Barry C. Schuster  
Barry C. Schuster, Esq. #2280

**ADDENDUM TO BRIEF**

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**Case Name:** Peter Hoekstra and Elizabeth Hoekstra v. Town of Sunapee  
**Case Number:** ZBA-2022-21

## ORDER

This matter concerns the appeal filed by Peter Hoekstra and Elizabeth Hoekstra (together, the “Applicant”) of a decision by the Town of Sunapee (“Town” or “Sunapee”) Zoning Board of Adjustment (“ZBA”) denying the Applicant’s administrative appeal concerning their use of a travel trailer on their property in Sunapee.

### FACTS

The Applicant owns certain property located at 25 Maple Street in Sunapee, also known in the Town’s tax records as Parcel ID: 0133-0104-0000 (“Property”). Certified Record (“CR”) at pp. 1, 10. The Property is located in the Town’s Village-Residential (“VR”) district, CR 10, and is currently improved with a single-family dwelling unit that is used as the Applicant’s primary residence. CR 10. The Applicant also maintains a single travel trailer (“Trailer”) on the Property, which they use as a short-term rental.<sup>1</sup> CR 10, 32, 46-61. See also Applicant’s Appeal of Zoning Board Decision, ¶¶ 4, 7.

By letter dated April 19, 2022, the Town’s zoning administrator notified the Applicant that their use of the Trailer violated the Town’s Zoning Ordinance (“Ordinance”) in that it “cannot be used as a dwelling, it must be hooked up to an approved water & sewer system.” CR 1. Subsequently, as indicated in correspondence dated June 13, 2022, the zoning administrator determined that the use of the travel trailer did not violate water or sewer requirements. CR 30. At the same time, however, the zoning administrator determined that the Applicant’s use of the

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<sup>1</sup> The record reflects that the Applicant lists the Trailer on Airbnb for nightly (i.e., transient) rentals, for a fee. CR 10, 46-61. The Airbnb listing refers to the Trailer as a “camper/rv” and is advertised as a “Sunapee Harbor Minimalist Retreat.” CR 46. House rules reflect the existence of check-in and checkout times. CR 59.

Trailer for short-term rental use was prohibited under Section 4.20 of the Ordinance, CR 31, which states that “[a]ny use not specifically permitted is prohibited.” CR 213.

On June 30, 2022, the Applicant filed its administrative appeal of the zoning administrator’s June 13th determination. CR 36. The ZBA heard the Applicant’s appeal at its meeting on July 19, 2022. CR 83. At the conclusion of such hearing, by a 4-1 margin, the ZBA voted to uphold the zoning administrator’s decision and to deny the Applicant’s appeal. CR 87. A written decision dated July 19, 2022 followed. CR 89. On August 11, 2022, the Applicant filed its request for rehearing with the Town, CR 90, which was denied by the ZBA at its meeting on September 1, 2022, CR 185, with a written decision issued on September 6, 2022. CR 191.

The Applicant filed its appeal with the Housing Appeals Board (“Board”) on September 27, 2022. A prehearing conference was held on November 14, 2022, and a hearing on the merits was held on November 29, 2022. This decision follows.

### **LEGAL STANDARDS**

The Housing Appeals Board’s review of any Zoning Board of Adjustment decision is limited. It will consider the Zoning Board’s factual findings *prima facie*, lawful, and reasonable. Those findings will not be set aside unless, by a balance of the probabilities upon the evidence before it, the Housing Appeals Board finds that the Zoning Board decision was unlawful or unreasonable. See RSA 679:9. See also, Lone Pine Hunters Club v. Town of Hollis, 149 N.H. 668 (2003) and Saturley v. Town of Hollis Zoning Board of Adjustment, 129 N.H. 757 (1987). The party seeking to set aside a Zoning Board decision bears the burden of proof to show that the order or decision was unlawful or unreasonable. RSA 677:6.

### **DISCUSSION**

This issue in this case is discrete. It involves a straightforward interpretation of the Ordinance. Specifically, at issue is whether the Applicant’s use of the Trailer as a short-term rental is permitted under the Ordinance. As such, a review of the applicable provisions of the Ordinance is necessary.

#### **I. The Ordinance**

To begin, Section 4.20 of the Ordinance establishes a “permissive” ordinance, meaning

that all uses that are not expressly allowed are prohibited. See Working Stiff Partners v. City of Portsmouth, 172 N.H. 611, 616 (2019). Section 4.10 of the Ordinance lists permitted uses in each zoning district. Its introduction states:

The following uses are permitted in each zoning district, subject to the other provisions of this ordinance. Whenever a use is permitted by right or special exception in any district, it may be used in conjunction with any other permitted or special exception use in that district. All uses are subject to other provisions of this ordinance[.]

Pursuant to Section 4.10, the following uses are permitted within the VR district:

Permitted by Right:

Accessory Uses	Municipal Buildings & Facilities
Assembly Halls	Museums & Galleries
Banks	Nursing & Convalescent Homes
Bed & Breakfast, Tourist Homes, Inns, Lodging & Boarding Services	Playhouse/Performing Arts/Theatre
Churches	Post Offices
Day Care	Professional Offices & Clinics
Food Vendor Cart (Adopted 3/08/2022)	Restaurants (excluding Drive-in Restaurants)
Funeral Homes	Retail (up to 15,000 SF)
Home Business	Schools (Public & Private)
Home Occupation Services	Shopping Centers (up to 15,000 SF)
Laundromat & Dry Cleaners	Single-Family Dwellings
Motels & Hotels	Two-Family Dwellings
Multi-Family Dwellings (3 to 5 Units)	

Permitted by Special Exception:

Accessory use/wind generation systems (Adopted 3/10/09)  
Auto, Boat & Engine Repair Shops  
Marinas  
Veterinarians  
Yards, (Lumber, Etc.)

Finally, Section 3.40(m) relates to travel trailers. It states:

Travel Trailers, which include, but are not limited to, camper trailers, motor homes, recreational vehicles, tent trailers and truck campers, are permitted subject to the following restrictions:

- 1) The owner of a travel trailer may store up to two (2) such trailers on his/her property in as inconspicuous a location as possible;
- 2) A travel trailer may be used for temporary sleeping quarters for not more than 90 days per 12-month period unless a Certificate of Compliance is issued. Sewage disposal must be in compliance with New Hampshire Water Supply and Pollution Control regulations or approved by the Sunapee Water and Sewer Department if on municipal sewer;



- 3) All travel trailers used for temporary sleeping quarters must be in compliance with all other provisions of this ordinance including building setbacks;
- 4) If three (3) or more travel trailers are to be placed on an individual lot and used as sleeping quarters, a Site Plan Review approval must be granted by the Planning Board. (Adopted 3/9/2004)

(Emphasis added.)<sup>2</sup>

## II. Canons of Statutory Construction

Interpreting a zoning ordinance is legal exercise that requires the application of rules of statutory construction. As summarized in Working Stiff, 172 N.H. at 616:

The interpretation of an ordinance is a question of law and requires us to determine the intent of the enacting body. We use the traditional rules of statutory construction when interpreting zoning ordinances. We construe the words and phrases of an ordinance according to the common and approved usage of the language, but where the ordinance defines the terms in issue, those definitions will govern. Furthermore, we determine the meaning of a zoning ordinance from its construction as a whole, not by construing isolated words or phrases. When the language of an ordinance is plain and unambiguous, we need not look beyond the ordinance itself for further indications of legislative intent.

(internal citations omitted).

## III. Arguments

The Applicant contends that the ZBA erred in upholding the zoning administrator's determination because the Ordinance permits the occupancy of travel trailers. The Applicant's primary argument relies upon Section 3.40(m) of the Ordinance, which provides that "a travel trailer may be used for temporary sleeping quarters for not more than 90 days per 12-month period[.]" The Applicant asserts that this language, together with the fact that rentals are permitted throughout the Town, confers them with the authority to use the Trailer for short-term rentals. The Town responds by pointing to the permissive nature of the Ordinance, as set up in Section 4.20, and contends that the Applicant's use of the Trailer for short-term rental is prohibited as it does not fall within any of the permitted uses listed in Section 4.10.

Here, the Applicant's argument relies on the language of Section 3.40, which arguably supports the Applicant's position when viewed in isolation. However, it does so at the exclusion of the plain language contained within Sections 4.10 and 4.20. Critically, the Applicant does not

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<sup>2</sup> The record does not reveal the legislative intent behind the passage of Section 3.40(m).

purport to use the Trailer as any of the allowed uses, which include accessory uses. Rather, the Applicant's position altogether bypasses Sections 4.10 and 4.20 of the Ordinance, which list those uses that are allowed in the Town and prohibit all others. Such a position runs counter to the above-referenced rules of statutory construction, which require that attention must be paid to the ordinance as a whole, and not select provisions in isolation. See Working Stiff, 172 N.H. at 616.

The introductory language within Section 4.10 provides additional evidence that any inquiry into permitted uses in the Town must include its consideration. Section 4.10 states that the listed uses are permitted "subject to the other provisions of [the Ordinance]," and that "[a]ll uses are subject to other provisions of this ordinance[.]" Here, the use of the phrase "subject to" is telling as it indicates that the primary uses may be dependent upon, or affected by, other provisions within the Ordinance. See Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/subject%20to> (defining "subject to," in relevant part as "affected by or possibly affected by (something)" (last visited January 27, 2023). Regardless of precisely how one defines "subject to," the phrase indicates a link between the permitted uses and the remaining provisions within the Ordinance. By ignoring Sections 4.10 and 4.20 of the Ordinance, the Applicant's argument severs such link, unreasonably.

Furthermore, the location of Section 3.40(m) within the structure of the Ordinance provides additional context in this case. Whereas Article IV of the Ordinance is titled "use regulations," Article III of the Ordinance is titled "dimensional controls." Article III includes standard requirements for lot size, frontage, setbacks, etc. Specifically, Section 3.40 is titled "additional requirements," and contains miscellaneous provisions, most of which primarily relate to aspects of dimensional requirements in the Ordinance. See, e.g., § 3.40(c), (d), (f), (h), (i), (j), (l), (n), and (o). It is here – in the Article of the Ordinance titled "dimensional controls," in a section titled "additional requirements" – where Section 3.40(m) resides. In light of this organization, it is difficult to envision that the intent of Section 3.40(m) was to create a new, independent permitted use untethered from Section 4.10.

The Applicant also asserts that the Trailer falls under the definition of a "dwelling unit," which, under the Ordinance, may be rented. See Article XI (definitions). However, even if a travel trailer can be a rentable dwelling unit in theory, that fact does not automatically mean that the Applicant's particular use of its travel trailer is allowed under the Ordinance. The Town's

objection is not to the rental aspect, necessarily, but the use of the Trailer as a short-term vacation rental for transient use. The distinction may be subtle, but reference to Section 4.20's list of permitted uses provides some clarity. There, it is evident that the Town's list of permitted uses does not concern itself with the ability for one to rent property. Rather, it regulates how property can be used.

Section 4.20 also shows that the Ordinance does, in fact, allow for certain short-term sleeping accommodations in the VR district. It does so by allowing "Bed & Breakfast, Tourist Homes, Inns, Lodging & Boarding Services[.]" which Article XI defines as "[a]n owner occupied single family dwelling in which no more than ten (10) rooms are used to provide transient sleeping accommodations, with meals served to guests only."<sup>3</sup> Thus, the Ordinance reflects a clear intent to regulate short-term transient use in the VR district, under certain conditions, including that such use take place in an owner occupied, single-family dwelling. Here, the Applicant's propose a variant of short-term transient use that is not specifically allowed under the Ordinance. As discussed previously, under the Ordinance, any use that is not specifically allowed is prohibited.

Moreover, on its face, Section 3.40(m) does not provide for "transient" sleeping accommodations, as is permitted at times under the Ordinance. "Transient" sleeping accommodations are allowed in certain districts when a property is used as a "Bed & Breakfast, Tourist Homes, Inns, Lodging & Boarding Services" or a "Hotel & Motel." See Article XI (definitions). Rather, Section 3.40(m) allows a trailer to be used for "temporary sleeping quarters." As noted by the Town, there is a material distinction between transient sleeping accommodations and temporary sleeping quarters. Based on standard dictionary definitions,<sup>4</sup> the former implies brief lodging for visitors, while the latter suggests that the lodging itself is

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<sup>3</sup> The Applicant originally argued that the Trailer fell under this definition as a tourist home, CR 32, but does not present such argument on appeal.

<sup>4</sup> None of these terms are defined in the Ordinance, so common dictionary definitions provide instruction. "Transient" is defined as "passing especially quickly into and out of existence" or "passing through or by a place with only a brief stay or sojourn." Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/transient> (last visited January 27, 2023). "Accommodation" is defined as "lodging, food, and services or traveling space and related services" Id. at <https://www.merriam-webster.com/dictionary/accommodation> (last visited January 27, 2023). "Temporary" is defined as "lasting for a limited time" Id. at <https://www.merriam-webster.com/dictionary/temporary> (last visited January 27, 2023). "Quarters" is defined as "to provide with lodging or shelter" Id. at <https://www.merriam-webster.com/dictionary/quarters> (last visited January 27, 2023).

somehow limited. The use of two different terms indicates a legislative intent for two different meanings. See City of Concord v. State of N.H., 164 N.H. 130, 141 (2012). The fact that the Ordinance does not allow travel trailers to be used for transient sleeping accommodations further supports the ZBA's denial of the Applicant's administrative appeal.

Finally, the Applicant contends that the ZBA's decision was unlawful because (1) the Town has previously approved an unrelated travel trailer in Town as a dwelling unit for use as a rental, see CR 93, and (2) many other short-term rentals are allowed throughout the Town. CR 94-182. Thus, the Applicant reasons, it was arbitrary and unlawful for the Town to deny its request to use the Trailer for short-term rentals.

However, the specific example cited to by the Applicant at page 93 of the record shows that the Town permitted the structure for occupancy for more than three months per year. Regardless of how the Trailer is currently being used, the face of the certificate of zoning compliance does not indicate that the structure was approved for use as a short-term rental. Likewise, with respect to the various other instances of unenforced short-term renters, the record does not address whether or not such uses violate the Ordinance. Moreover, the Applicant fails to articulate a specific legal theory that would justify its position on this issue. For example, it is unclear if the underlying theory is grounded in constitutional principles, whether the doctrine of administrative gloss should apply, or whether the Applicant is the subject of selective enforcement. Merely asserting arbitrary treatment, without specific and credible evidence, does not satisfy the Applicant's burden to demonstrate that the ZBA acted unreasonably or unlawfully in denying the Applicant's administrative appeal.

## **CONCLUSION**

Based on the foregoing, upon a balancing of the probabilities, the Housing Appeals Board ORDERS as follows:

1. The decision of the Town of Sunapee Zoning Board of Adjustment denying the Applicant's administrative appeal is AFFIRMED, consistent with this Order;
2. The Applicant's appeal is DENIED; and

3. The Town's requests for findings of fact and rulings of law which are consistent with this Order are APPROVED; the balance are DENIED.

**HOUSING APPEALS BOARD  
ALL MEMBERS CONCURRED  
SO ORDERED:**

*Elizabeth Menard*

Elizabeth Menard, Clerk

Date: January 30, 2023

# THE STATE OF NEW HAMPSHIRE HOUSING APPEALS BOARD

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**Case Name:** Peter Hoekstra and Elizabeth Hoekstra v. Town of Sunapee  
**Case Number:** ZBA-2022-21

## INTERIM ORDER

On February 22, 2023, Peter and Elizabeth Hoekstra filed their Motion for Reconsideration. On February 27, 2023, the Town of Sunapee filed its Objection to such motion. Consistent with RSA 541:5, and until further orders are issued, the Housing Appeals Board ("Board") SUSPENDS its January 30, 2023 decision (Order Number 2023-007) on the merits of the above-captioned appeal to allow the Board time to conduct a full and complete review of the arguments.

**HOUSING APPEALS BOARD  
ALL MEMBERS CONCURRED  
SO ORDERED:**

*Elizabeth Menard*

Elizabeth Menard, Clerk

Date: March 6, 2023

# THE STATE OF NEW HAMPSHIRE HOUSING APPEALS BOARD

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**Case Name:** Peter Hoekstra and Elizabeth Hoekstra v. Town of Sunapee  
**Case Number:** ZBA-2022-21

## ORDER

After review of Peter and Elizabeth Hoekstra's (together, the Applicant) February 22, 2023 Motion for Reconsideration and the Town of Sunapee's ("Town") objection to same, the Housing Appeals Board ("Board") RULES as follows:

The Board will only grant a rehearing motion "upon a showing that the board overlooked or misapprehended the facts or the law and such error affected the board's decision." See Administrative Rule Hab 201.32(e). Nothing in the Applicant's rehearing motion identifies any facts (as contained within the certified record) or law the Board overlooked or misapprehended that affected the decision in the instant matter.

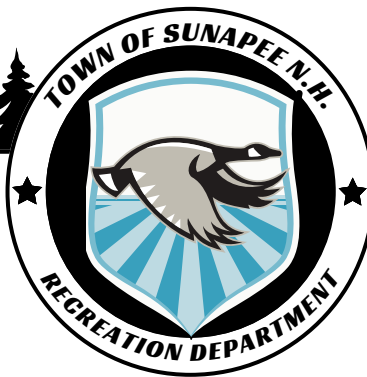
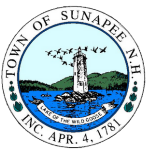
In light of the foregoing, the Housing Appeals Board hereby DENIES the Applicant's February 22nd Motion for Reconsideration. The Housing Appeals Board's January 30, 2023 decision on the merits (Order Number 2023-007), suspended by its Interim Order dated March 6, 2023, is UNSUSPENDED and REINSTATED forthwith.

**HOUSING APPEALS BOARD  
ALL MEMBERS CONCURRED  
SO ORDERED:**

*Elizabeth Menard*

Elizabeth Menard, Clerk

Date: March 17, 2023



## SUNAPEE RECREATION DEPARTMENT

# RECREATION ASSESSMENT & NEEDS SURVEY

**THE RECREATION DEPARTMENT NEEDS YOUR FEEDBACK!** The answers you provide in this survey will help us determine program priorities, facility use and quality, program satisfaction, and let us know what activities or facilities our community would like to have in Town.

**THE SURVEY WILL BE OPEN UNTIL MONDAY, OCTOBER 23RD.**

**You may fill out the survey using this link:**

**[WWW.BIT.LY/SUNAPEE-REC-SURVEY](http://WWW.BIT.LY/SUNAPEE-REC-SURVEY)**

**OR by scanning the QR code. Paper copies are available at Town Hall and Abbott Library.**

**Questions?** Email our Recreation Coordinator, Steve Bourque, at: **[recreation@town.sunapee.nh.us](mailto:recreation@town.sunapee.nh.us)**

# THANK YOU!

**SCAN HERE WITH  
YOUR PHONE TO  
FILL IT OUT NOW:**

