

# **AGREEMENT**

between

**TOWN OF NANTUCKET, MASSACHUSETTS**

and the

**MASSACHUSETTS LABORERS' DISTRICT COUNCIL**

in behalf of

**PUBLIC EMPLOYEES' LOCAL UNION 1249**

of the

**LABORERS' INTERNATIONAL UNION OF NORTH AMERICA**

**covering the Deputy Chief of Police**

**JULY 1, 2002 - JUNE 30, 2005**

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## **AGREEMENT**

AGREEMENT is entered into by and between the Town of Nantucket, Massachusetts, acting through its Board of Selectmen respectively (hereinafter referred to alternately as the "Employer" or "Town") and the Laborers' International Union of North America, AFL-CIO (hereinafter referred to as the "Union")

### **ARTICLE 1 - PREAMBLE**

The intent and purpose of this Agreement is to set forth wages, hours, and other terms and conditions of employment for Employees in the bargaining unit represented by the Union and to provide methods for fair and peaceful adjustment of all disputes which may arise between them, so as to secure uninterrupted services to the citizens of the Town of Nantucket.

### **ARTICLE 2 - RECOGNITION**

2.1 The Town recognizes the Union as the exclusive representative for the position of Deputy Chief of Police, excluding all temporary and casual employees and all other employees of the Town.

### **ARTICLE 3 - EMPLOYEE DEFINITIONS**

#### **3.1 Regular Full Time Employees:**

The duties and responsibilities associated with the position of Deputy Chief of Police are set forth in Exhibit A, attached hereto.

### **ARTICLE 4 - MANAGEMENT RIGHTS**

4.1 By virtue of this working Agreement, the Town has not surrendered any of its managerial rights to determine and prescribe the methods and means by which its operation of the Town shall be conducted. It may establish departmental rules and procedures, schedule the work in a manner to achieve efficiency and consideration to the taxpayers expense; and, subject to the restrictions of this Agreement, discharge and discipline for cause; determine work schedules; and establish methods and processes by which work is to be performed, providing such action is not in direct conflict with the provisions of this Agreement.

4.2 The foregoing enumeration of certain rights under this Article shall not limit the managerial rights of the Town or any rights not enumerated herein, providing such rights are not in direct conflict with the provisions of this Agreement.

## **ARTICLE 5 - UNION SECURITY AND CHECKOFF**

### **5.1 Payroll Deduction of Agency Service Fee:**

Pursuant to General Law Chapter 150E, Sec. 12 it shall be a condition of employment that on or after the thirtieth (30<sup>th</sup>) day of employment in the bargaining unit, or the effective date of this Agreement, whichever is later, each and every member of the bargaining unit shall pay to the Union an Agency Service Fee which shall be proportionally commensurate with the cost of collective bargaining and contract administration. The Agency Service Fee shall, as provided below, be deducted each pay period and shall be equal in amount to the sum set from time to time by the Union as their regular dues.

5.2 If an Employee submits to the Town Treasurer a uniform authorization for requesting that monthly dues be deducted from his/her first pay check each month, the Town Treasurer will on the next month begin to deduct Union dues from said Employee's payroll check. No authorization shall be allowed for payment of initiation fees, assessments, or fines.

5.3 All authorizations by an Employee must be in uniform form, supplied by the Union and signed by the Employee from whose wages such Union dues will be deducted. Such authorization shall remain in effect until revoked by the Employee, and shall be irrevocable for a period of one year from the date the authorization is signed, or until the termination of this collective bargaining Agreement, whichever occurs sooner. Revocation must be by written notice given by the Employee to the Town Treasurer, with a copy to the Union not more than twenty (20) days and not less than ten (10) days prior to the expiration of such time. If no such notice is given by the Employee, the Employee further agrees that the authorization and assignment first submitted shall be automatically renewed and be irrevocable for successive periods of one year thereafter, or until the termination of the Agreement, whichever occurs sooner.

5.4 The Union shall keep the Town Treasurer updated as to the name of its authorized representative and the address to which the Union dues collections shall be sent. Such notification must be in writing and duly signed by the authorized Union representative.

5.5 No dues shall be deducted from any Employee who is on authorized leave if said Employee is not on the payroll during the week in which the deduction is to be made, or

when the dues exceed the pay check.

**5.6** The Employer assumes no responsibility for the consequences of any Employee's failure to authorize dues deductions; the only responsibility of the Town will be to see that the deduction is made in accordance with the authorized uniform check off request, duly signed by the Employee and the mailing of such deducted moneys to the designated Union representative. Neither the Town, nor any of its officers, agents or Employees shall in any way be held liable or responsible for any loss resulting from acts of said Union or its officers or agents.

**5.7** The Town shall not remove any Employee from employment because of failure to pay Union dues or agency service fees.

**5.8** The Union agrees to and will indemnify, defend, hold and save the Town blameless against any and all claims, demands, suits, or other form of liability, including attorneys fees, instituted against the Town or its personnel on account of payroll deductions under this Article.

#### **ARTICLE 6 - UNION BUSINESS**

**6.1** The members of the bargaining unit in the employ of the Town may select from the Employees covered by this Agreement, one (1) Steward. The Union shall provide the Town with a written designation of the stewards. The activities of the stewards shall not interfere with their work for the Town and they shall obtain permission of the Chief of Police to leave on Union business. Joint Labor-Management meetings called at a time agreed by both parties will not result in a loss of pay on the part of the Employees requested to attend the meeting.

**6.2** The Town shall provide a reasonable amount of space on its bulletin boards for the posting of Union bulletins, but use of such bulletin boards shall be restricted to the following purposes: (a) Notice of recreational and social activities; (b) Notice of elections and results; (c) Notice of appointments of Union representatives; and (d) Notice of meetings.

**6.3** One (1) Union Delegates shall be allowed to attend LIUNA convention once every five (5) years without loss of pay, for a maximum of 5 days.

#### **ARTICLE 7 -DISCRIMINATION**

**7.1** In the administration of this Agreement, neither the Town nor the Union shall discriminate against any Employee because of Employee's race, color, sex, religion, national

origin, sexual orientation, age, political or union membership, or against qualified individuals with a disability.

**7.2 Interpretation**

This Article shall be interpreted in accordance with applicable federal and state law.

**7.3 Reasonable Accommodation**

In the administration of this Agreement, the Town and the Union will provide reasonable accommodations to qualified employees with a disability and to Employees based upon their religious tenets. The need for and extent of such accommodations shall be determined by the Town in accordance with its interpretations of the requirements of the Americans with Disabilities Act and Title VII of the Civil Rights Act of 1964, even if such accommodations may be in conflict with another provision of this Agreement.

**7.4 Waiver of Contractual Rights**

If an Employee claiming a violation of this article elects to proceed to an administrative agency or to court during the pendency of the grievance, the grievance will be considered to have been withdrawn.

**ARTICLE 8 – SEVERABILITY**

If any provision of this Agreement is held invalid, by a Court or administrative agency of competent jurisdiction, the remainder of this Agreement shall remain in force.

**ARTICLE 9 - NO STRIKE OR LOCKOUT**

**9.1** There shall be no strike or lockout during the term of this Agreement. The Union recognizes that it does not have the right to strike against the Town or to assist or participate in any such strike or impose a duty or obligation to conduct assist, or participate in any strike.

**9.2** No Employee covered by this Agreement shall engage in, induce, or encourage any strike, work stoppage, slowdown, or withholding of service. The Union agrees that neither it nor any of its officers or agents will call, instigate, authorize, participate in, sanction or ratify any such strike, work stoppage, slowdown or withholding or services.

**9.3** Should any Employee or group of Employees covered by this Agreement engage in any strike, work stoppage, slowdown or withholding of services, the Union shall forthwith disavow any such strike, work stoppage, slowdown or withholding of services and shall refuse to recognize any picket line established in connection therewith. Furthermore, at the

request of the Town, the Union shall take all reasonable means to induce such Employee or group of Employees to terminate the strike, work stoppage, slowdown or withholding of services and to return to work forthwith.

### **ARTICLE 10 - GRIEVANCE AND ARBITRATION PROCEDURES**

**10.1** Only matters involving the meaning of the written provisions of this Agreement shall be the subject of a grievance under this Article.

**10.2** Grievances shall be processed as follows:

**Step 1.** The grievant shall file the grievance in writing with the Chief of Police within five working days after the action which serves as the basis for the grievance. The Chief of Police will investigate the complaint to determine its validity and shall respond in writing within five working days. A failure to respond in writing within five working days shall be deemed an unsatisfactory answer.

**Step 2.** If the grievance is not satisfactorily resolved by the Chief of Police it should be submitted along with the supervisor's response and any pertinent documents to the Town and County Administrator within five working days. No grievance shall be presented at Step 2 more than ten (10) working days after the facts upon which it is based occurred. The Town and County Administrator will issue a written decision determining the validity of the complaint within ten (10) working days after its receipt and may take such action as she/he thinks appropriate, including, if necessary, developing a plan to remedy the problems complained of.

**Step 3.** If the grievance is not satisfactorily resolved by the Town and County Administrator, a response and all pertinent documents attached with a letter should be submitted to the Board of Selectmen within five working days of the response of the Town and County Administrator. The Board of Selectmen will issue a written decision determining the validity of the grievance within fifteen (15) days after its receipt and may take such action as he/she thinks appropriate, including if necessary, developing a plan to remedy the problem(s) grieved. A failure to respond in writing shall be deemed to be an unsatisfactory answer, and the Union may proceed to arbitration pursuant to 10.4 of this Agreement.

**10.3** The time limits herein provided shall be strictly adhered to, provided that the parties may in writing agree to an extension thereof at any Step. If a grievance is not taken to the next Step of the grievance procedure following an unsatisfactory answer in the previous Step, or if a grievance is not submitted within the time limits provided at each Step, it shall be deemed to have been resolved on the basis of the answer last given.

## **10.4 ARBITRATION**

**10.4.1** Should a grievance not be resolved in the grievance procedure, the Union may submit the grievance for arbitration no later than 30 calendar days following the Town's response or failure to respond in the last Step of the grievance procedure. Only the Union and the Town may submit grievances to arbitration. In the case of a Town grievance, it shall be initiated at Step 3 of the grievance procedure. The Arbitrator shall have no jurisdiction to hear or decide any grievance not submitted within the time limits herein provided.

**10.4.2** The submission to Arbitration by either party shall also include written notice to the other and shall have attached thereto the written grievance.

**10.4.3** If the party's representatives cannot mutually agree on an Arbitrator within ten (10) working days after the notice to arbitrate, the grieving party may request a panel of arbitrators from the American Arbitration Association, from which the Arbitrator will be selected under the selection procedures then in force at the Association.

**10.4.4** Each side shall bear its own expenses of arbitration except that the fees and expenses of the Arbitrator shall be borne equally.

**10.4.5** The Arbitrator shall have no power to add to, or subtract from, or alter or amend any provision of this Agreement.

**10.4.6** Issues subject to any other statutory right of appeal shall not be the subject of grievances or arbitration under this Agreement.

## **ARTICLE 11 - STABILITY OF AGREEMENT**

**11.1** No Agreement, understanding, alteration or variation of the terms or provisions of the Agreement herein contained shall bind the parties hereto unless made and executed in writing by the parties hereto.

**11.2** The failure of the Town or the Union to insist, in any one or more incidents, upon performance of any of the terms or conditions of the Agreement shall not be considered as a waiver or relinquishment of the right of the Town or of the Union to future performance of any such term or condition and the obligations of the Union and the Town to such future performance shall continue in full force and effect.

## **ARTICLE 12 - SENIORITY AND PROMOTION**

### **12.1 Definition**

Except as otherwise provided, seniority shall be defined as length of continuous service with the Town as a police officer of any rank

### **12.2 Accumulation**

Seniority shall accumulate during absence because of illness, vacation or other authorized leave or layoff for a period of twelve (12) months.

### **12.3 Break in Seniority**

Seniority shall be broken when an Employee (a) terminates voluntarily, (b) is discharged, (c) exceeds an authorized leave of absence, (d) is laid off for a period in excess of twelve (12) months or, (e) is absent for a period exceeding twelve (12) consecutive months due to a physical and/or mental disability which creates an inability to perform all of the duties required for the position.

### **12.4 Posting Seniority List**

A Seniority List of all Employees covered by this Agreement, showing name, position and date of entering service, will be posted promptly on appropriate bulletin boards accessible to all Employees affected. The roster will be revised and posted in January of each year and will be open to protest and correction for a period of thirty (30) days, and upon proof of error presented by an Employee or his/her representative, such error will be corrected.

### **12.5 Promotional Vacancies**

The Town shall determine whether a promotional vacancy exists and is to be filled. Promotional selections shall be subject to the grievance and arbitration procedure. All members of the Bargaining Unit shall be given the opportunity to bid on vacant positions. In all applications of seniority under this Agreement, the ability of the Employees shall mean the qualifications and ability of an Employee to perform the required work. Where qualifications and ability are equal, seniority shall be the determining factor.

### **12.6 Probationary Period**

Individuals who are promoted shall serve a thirty day probationary period in the new title. Any promoted individual removed from the promoted position within the thirty day probationary period shall be returned to his or her previous title.

### ARTICLE 13 - LAYOFFS AND RECALL

13.1 The Town in its discretion shall determine whether layoffs are necessary. Although not limited to the following, layoffs shall ordinarily be for lack of work and/or lack of funds. If it is determined that layoffs are necessary in a particular classification, Employees will be laid off in the following order:

- a.) Temporary Employees;
- b.) Part-time Employees;
- c.) Probationary period Employees, and;
- d.) In the event of further reductions in force, Employees will be laid off from the affected classifications of lesser rank in accordance with their ability to perform the remaining work available without further training. When two or more Employees have relatively equal experience, skill, ability and qualifications to do the work without further training, the Employee(s) with the least seniority will be laid off first.

13.2 Employees who are laid off shall be placed on a recall list for a period of two (2) years. If there is a recall, Employees who are still on the recall list shall be recalled, in the inverse order of their layoff, provided they are presently qualified to perform the work in the job classification to which they are recalled without further training.

13.3 Employees who are eligible for recall shall be given fourteen (14) calendar days notice of recall and notice of recall shall be sent to the Employee by certified or registered mail with a copy to the Union, provided that the Employee must notify the Town of his/her intention to return within three (3) days after receiving notice of recall. The Town shall be deemed to have fulfilled its obligations by mailing the recall notice by registered mail, return receipt requested, to the mailing address provided by the Employee, it being the obligation and responsibility of the Employee to provide the Town with his/her latest mailing address.

### ARTICLE 14 - WAGES

14.1 Wages paid to Employees in the classification covered by this Agreement shall be calculated using a fixed percentage multiplied by the top step Regular Full-Time Police Officer annual base pay as follows:

Deputy Chief of Police: 182%

#### 14.2 Longevity Pay

Employees shall be paid, in addition to his/her compensation, longevity pay which shall be calculated using a fixed percentage multiplied by the annual base pay as follows:

**LENGTH OF SERVICE**

**AMOUNT**

Five (5) years of service but less than ten (10) years of service .....2% of base wages

Ten (10) years of service but less than fifteen (15) years of service.....3% of base wages.

Fifteen (15) years of service but less than twenty(20) years of service .....4% of base wages.

Twenty (20) years of service.....5% of base wages.

14.2.1 Longevity will be paid in December of each year.

14.3 There will be no pro-rating of longevity compensation in the year in which an Employee first becomes eligible for such compensation, or in those years in which an Employee becomes eligible for additional compensation, and there will be no pro-rating longevity compensation upon retirement. In the event of an Employee's death, payment of longevity compensation due shall be made to his/her beneficiary designated in writing, on file with the Retirement Board or, in the absence thereof, to his/her estate. In the event of termination of employment by retirement or death, the amount of longevity compensation due will be paid at the time of retirement or death.

14.4 **Higher Classification Pay:** An employee required by his/her supervisor to perform the duties of a higher classification shall be paid the higher rate. To qualify for said assignment the employee must assume and perform all duties of the higher classified position, after five (5) continuous days, not to include vacation.

**ARTICLE 15 - HOURS OF WORK AND OVERTIME**

15.1 The normal workweek shall be Monday through Sunday. Employees covered under this Agreement shall work a five (5) day on and two (2) day off schedule and are subject to twenty-four (24) hour call-back for emergencies or other major incidents. Any such call back beyond the normal workday shall not entitle the employee to overtime or other compensation except as provided in Article 16, 16.4.

**ARTICLE 16 - HOLIDAYS**

**16.1** Employees shall receive one day at straight time pay for the following legal holidays:

New Year's Day  
Martin Luther King Day  
President's Day  
Patriots' Day  
Memorial Day  
Independence Day  
Labor Day

Columbus Day  
Veteran's Day  
Thanksgiving Day  
Christmas Day  
Either day after Thanksgiving  
or day before/after Christmas  
subject to approval by Chief

**16.2** These aforesaid holidays shall be guaranteed whether or not they fall on or are observed on a regularly scheduled workday. Days officially substituted or observed by the Commonwealth of Massachusetts in place of actual holidays, such as President's Day, Memorial Day, Columbus Day, and Veteran's Day, shall be likewise observed. Holidays falling on Sunday are celebrated the following Monday. Holidays falling on Saturday are celebrated the proceeding Friday.

**16.3** To be eligible for such holiday pay, any Employee shall have worked on the workday proceeding the holiday and have worked on the following workday, unless on authorized leave.

**16.4** Employees who work on a holiday shall receive compensatory time, in addition to holiday pay.

**16.5** If a holiday occurs during vacation leave, an alternate day may be taken.

**16.6** If the state approves any additional State holidays, which is then recognized by the Town for other Town Employees, said holiday(s) shall be incorporated into this Agreement as if written.

#### **ARTICLE 17 - VACATION LEAVE**

**17.1** Vacation shall be as follows:

Vacation leave earned shall be computed from the date of employment with the Town. However, an Employee shall not be entitled to vacation leave until the completion of the first six months of service.

**17.2** All permanent employees shall be entitled to vacation each year on the following basis:

**Length of Service**

**Vacation Allowance**

After 1 year, but less than 5 years

10 work days at .833 days per month

After 5 years, but less than 10 years	15 work days at 1.25 days per month
After 10 years, but less than 20 years	20 work days at 1.67 days per month
After 20 years	25 work days at 2.08 days per month

**17.3** Vacations shall be granted by the Department Head at such time as in his/her opinion will cause the least interference with the performance of his/her regular work of the Department. Vacations shall not be accumulated from one year to the next, but must be

taken in the anniversary year in which they are due. Any balance will be carried over, upon request, for a period of six (6) months and upon approval of the Department Head.

**17.4** So far as practical, first choice of vacation dates shall be on the basis of length of employment with the Town.

**17.5** When an Employee leaves the employ of the Town, he/she shall be paid for all unused vacation accrued to the last day worked. In the event of the death of an Employee, any accumulated vacation pay shall be paid to his/her estate.

**17.6** In unusual situations, absences due to personal reasons, or illness in excess of the amount authorized by the sick leave plan, may be charged to vacation leave.

### **ARTICLE 18 - SICK LEAVE**

Sick leave pay shall be credited as follows:

**18.1** All Regular Full-Time Employees shall accumulate sick leave entitlement at the rate of one and one-quarter days for each month worked.

**18.2** In the event the earned sick leave is not used in any particular year, the unused portion shall be allowed to accumulate to a maximum of one hundred fifty (150) days. Only regular working days of the Regular Full-Time Employee shall be counted in computing sick leave.

**18.3** Sick leave shall be paid on the basis of the Regular Full Employee's regular straight time hourly rate of pay at the time sick leave is taken.

**18.4** Employees entitled to sick leave who leave work due to illness after the start of their shift shall be compensated for time not worked on that shift out of their accrued sick leave, if any, and their sick leave entitlement shall be reduced accordingly.

**18.5** If required by the Town, a physician's certificate of illness shall be submitted by the Employee after three (3) days of absence before leave will be granted under the provisions of

this section. Further, it is mandatory that a physician's certificate of illness be provided by the Employee on the thirtieth (30<sup>th</sup>) day of a continuous sickness or disabling injury.

**18.6** The Town will have the right to require a medical examination of an Employee who reports inability to report for duty because of illness or injury. This examination shall be at the expense of the Town by a physician appointed by the Town.

**18.7** Sick leave shall be payable only in case of bona fide illness, illness in the immediate family, or non-work connected accident. Sick leave may be used for off island travel for Medical Reasons including doctors appointments, x-ray and lab work.

**18.8** An Employee may receive an additional sick leave of up to sixty (60) days per fiscal year for catastrophic illness, subject to approval by the Town. The grant or denial of such catastrophic illness leave shall be at the sole discretion of the Town and not subject to grievance or arbitration provisions of this Agreement. All sick leave must be depleted before catastrophic illness pay is granted. A minimum of one years' continuous service is required. The Town may take into account past absences and the length of an Employees service. An Employee may use any accrued vacation, sick leave and/or personal time to receive pay while on sick leave in excess of sick time accrued. Health and basic life insurance coverage will continue if Employee desires and arranges for payment of the 10% Employee portion of their premium.

#### **18.9 Sick Leave Bank**

In the event of extended illness, an additional source of aid shall be provided by means of general sick leave bank to provide for additional days beyond the accumulated sick leave benefits.

**18.9.1** The sick leave bank will acquire its assets by the voluntary donation of sick leave days from any other Employees, including days accrued in excess of 150.

**18.9.2** The Sick Bank Committee will govern and award of sick leave from the sick leave bank. The committee shall consist of two members from the Union and two members from the Town.

#### **18.10 Sick Day Buyback**

The Town will compensate the Employee for 50% of accrued sick leave upon resignation and/or retirement, provided the Employee has a minimum of ten years of service. Upon retirement an Employee may donate up to twenty-five percent of his/her accrued sick leave to the sick leave bank.

#### **18.11 Light Duty**

If a Police Officer is partially disabled but is capable of performing light duty in the police station, which shall consist of dispatching work, administrative projects, research, filing research, filing, record-keeping, and tasks of a similar nature, the Town shall the right to require him to perform such work at his applicable rate of pay. If the Town believes that a disabled officer is fit to perform light duty and the officer contends he is incapable of doing so, the officer's fitness shall be determined by a physician selected by the Town at no cost to the officer. If the Town's physician deems the officer fit and the officer's physician makes a contrary determination, the officer's fitness for such duty shall be determined by a third physician selected by the Town and the Union and paid by the Town. Any officer assigned to light duty may be scheduled to work a five (5) day on and two (2) day off, forty (40) hour work schedule.

### **ARTICLE 19 - BEREAVEMENT LEAVE**

#### **19.1 Bereavement Leave shall be as follows:**

Employees shall be paid up to five (5) working days at his/her regular rate of pay, for scheduled time lost due to death of an Employee's father, mother, child, wife, husband, brother, sister, grandmother, grandfather, father-in-law, mother-in-law, brother-in-law, sister-in-law. Foster, Step and/or adopted relationships, relatives living in the household and designated partner shall be covered.

### **ARTICLE 20 - MILITARY, JURY DUTY AND LEAVE OF ABSENCE**

**20.1 Military Duty:** Employees who are members of the military reserves, will receive the difference between military pay and regular pay for the annual two week tour of duty in the military reserves.

**20.2 Jury Duty:** If an Employee is called to jury duty on their regular work days he/she shall be paid their regular pay, provided that the proper documentation is submitted and the Employee reports to work when not required to sit on the jury during a full day or in the event that jury service is canceled for a certain day.

**20.3 Leave of Absence:** Leave of Absence may be granted to any Employee by the Town. Any Employee wishing a leave of absence must notify the Chief of Police in writing twenty-one (21) calendar days prior to the start of requested leave. The Chief shall respond to the Employee in writing within seven (7) calendar days of the receipt of the request. It is understood by both parties that emergency conditions may preempt the normal process outlined herein.

**ARTICLE 21 - FAMILY AND MEDICAL LEAVE ACT/MATERNITY OR  
PATERNITY LEAVE**

**21.1 Family and Medical Leave.**

**21.1.1 Eligibility**

An Employee may be eligible for Family and Medical and/or Maternity/Paternity Leave. Under certain circumstances, an Employee may be eligible for both Family and Medical Leave and Maternity/Paternity Leave. In such circumstances, the Employee's leave will be charged against both types of simultaneously. Where an Employee is eligible for both types of leave, and one type of leave provides greater benefits than the other, the Employee shall be provided such greater leave benefits to which she is entitled.

An Employee employed by the Town for at least twelve (12) months, who has worked at least 1,250 hours during the twelve (12) month period immediately preceding a leave under this section, may take up to twelve (12) weeks for any leave for any one or more of the following reasons:

- 21.1.1.1** The birth of the Employee's child, and in order to care for the newborn child;
- 21.1.1.2** The placement of a child with the Employee for adoption or foster care;
- 21.1.1.3** The need to care for the Employee's spouse, child or parent who has a serious health condition;
- 21.1.1.4** The Employee's own serious health condition that renders the Employee unable to perform the functions of his or her job.

**21.1.2 Certification**

An Employee shall provide certification from a health care provider to substantiate any leave due to the serious health condition of the Employee or the Employee's immediate family member. Failure to provide such certification will result in a denial of the leave request until the Employee provides the requested certification.

**21.1.3 Notice**

In order to plan for the provision of quality uninterrupted services to clients, the

Employee seeking leave must notify the Town at least thirty (30) days prior to any anticipated leave. If the need for leave is not foreseeable, the Employee must give the Town notice as soon as practicable. Failure to provide such advance notice will result in a denial of the leave request until 30 days after the notice is provided to the Town.

#### **21.1.4 Group Health Plan Coverage**

The Town will continue its contributions to group health plan insurance for an Employee who is out on family or medical leave. The Employee must continue to pay his or her share of such premium during the leave period.

#### **21.1.5 Use of Accrued Vacation, Personal, and Sick Time**

An Employee on family or medical leave must use any accrued vacation and personal time while on such leave. An Employee on family or medical leave for the reasons set forth in 21.1.1.1, 21.1.1.2., and 21.1.1.3 may use any accrued sick time while on such leave. An Employee who is on medical leave for the reason stated in 21.1.1.4 must use any accrued sick time while on such leave. Employees out on family or medical leave will continue to accrue vacation and sick time while on such leave.

#### **21.1.6 Reinstatement**

At the end of the Family and Medical Leave an Employee shall be restored to his or her former position, if available, or to a similar position elsewhere in the Town, with the same pay, benefits and working conditions as of the date if the Employees leave. The Employee's right to be restored is limited to what the Employee's job would have been if he or she had not taken leave. Prior to restoration, an Employee who takes a medical leave for the reasons set forth in 21.1.1.4 must obtain and present certification from a health care provider that the Employee is able to resume work. Failure to provide such certification will result in a denial of restoration until the Employee provides the requested certification.

### **21.2 Maternity or Paternity Leave**

#### **21.2.1 Eligibility**

A Employee employed by the Town for at least three (3) consecutive months on a full-time basis, may take up to eight (8) workweeks of unpaid leave for any one or more of the following reasons:

**21.2.1.1** The birth of the Employee's child

**21.2.1.2** The placement of a child with the Employee for adoption or foster care.

**21.2.2 Use of Accrued Vacation, Personal, and Sick Time**

A Employee on Maternity/Paternity leave may use any accrued vacation and personal time while on such leave. Accrued sick time may be used during the period of pregnancy-related disability.

**21.2.3 Maternity/Paternity Leave to run concurrent with Family and Medical Leave Act Leave**

Maternity/Paternity leave taken under this section additionally shall be charged against an Individual's Family and Medical Leave Act entitlement.

**21.2.4 Notice**

In order to plan for the provision of quality uninterrupted service, the Employee seeking leave must notify the Town at least two (2) weeks prior to any anticipated leave.

**ARTICLE 22 - PERSONAL LEAVE**

**22.1** Employees covered by this Agreement shall be allowed two personal days per year.

**22.2** An Employee must be employed at least twelve (12) months before earning personal leave.

**ARTICLE 23 - PERSONNEL FILES**

**23.1** Each Employee will have the access to his own personnel record in the department files, upon request to the Chief of Police. All personnel files shall be maintained and kept by the Chief of Police. The Chief of Police shall forward a copy of all documents to Employee prior to adding to the file. Employees shall have the right to include in their personnel files a written rebuttal to derogatory statements therein, and subject to MGL Ch. 149 Sec. 52C.

**ARTICLE 24 - UNIFORMS**

**24.1** Uniform/Clothing and Equipment Allowance

The Town agrees to supply and maintain, for each Police Officer covered by this Agreement, the necessary equipment required by the Department: (i.e.) weapons, badges. Employees who are on twenty-four (24) hour call shall be provided a Department vehicle for official use.

**24.2** The Chief or his designated representative shall be responsible for issuing article(s) of clothing and accessories for each Police Officer covered by this Agreement, who shall in each year after the year of his/her initial issuance, have a drawing allowance. The drawing allowance for each year of this contract shall be six hundred dollars (\$600.0). This

allowance shall not be cumulative from year to year, and shall be used to replace items that have been worn out. When new issue is being requested, the old issue will be turned in to the Department.

## **ARTICLE 25- MEDICAL INSURANCE**

### **25.1 Health Insurance**

**25.1.1** The Town agrees to pay ninety percent (90%) of the Blue Cross-Blue Shield Master Medical Plan health insurance premium, individual or family plan, for those regular employees who are participating in said plan. The Town may pay eighty percent (80%) of the Blue Cross-Blue Shield Master Medical Plan health insurance premium, individual or family plan, for those regular employees who are participating in said plan, provided the Town also offers the Blue Care Elect Preferred Provider Plan as an alternative to the Master Medical Plan. The Town may also offer the Blue Care Elect Plan without changing its ninety percent (90%) contribution percentage of the Master Medical Plan. The Town agrees to pay ninety (90%) of the cost of the Blue Care Elect Plan, individual or family coverage, for those regular employees who are participating in said plan.

The Town agrees that the Blue Care Elect Plan ("PPO") offered to employees will require only a twenty-five dollar (\$25.00) co-pay by employees for Emergency Room visits and will provide a one year transition period between from the date the PPO Plan is implemented to 1.) pay the difference between in-network and out-of-network costs for any employee who, at the time the PPO Plan is implemented, is receiving treatment from a specialist provider whose services are currently covered under the Master Medical Plan but who is not covered under the PPO Plan, and 2.) pay the difference between the in-network and out-of-network costs for any employee whose primary care physician is enrolled in the PPO Plan but drops out of the PPO network at any time, for a one year transition period following the date the physician drops out of the PPO network.

### **25.2 Life Insurance**

Life insurance will be offered by the Town on an optional basis.

**25.3 Retirement**

Weekly deductions will be made into the Barnstable Retirement Plan.

**25.4** The Town shall continue the process to establish, on town wide basis for implementation a Cafeteria Plan of the type authorized by Chapter 697, Section 132 of the Acts or 1987 for the single purpose of enabling Employees to pay their share of the premium for their health insurance, voluntary dental and group life with pre-tax earnings.

**25.5 Laborer's International Union of North America, National (Industrial) Pension Fund**

The Town agrees to fund a supplemental pension for Employees based upon an hourly contribution as follows:

**25.5.1** \$.12 (twelve cents).

**ARTICLE 26 - DISCIPLINE**

**26.1 Civilian Complaints**

No disciplinary action of any kind shall be taken on any complaint from a private citizen against an Employee in the bargaining unit unless the complaint is on a citizen's complaint form.

**26.2 Cause**

The Town shall have the right to discipline Employees for cause only.

**26.3 Progressive Discipline Process**

The steps in the progressive discipline process are as follows, each step to be signed off by the Employee.

**26.3.1 Counseling**

The supervisor will meet with the Employee to provide a prompt recognition of a

problem and suggestions for correction in an effort to eliminate the need for further discipline. If counseling does not correct the problem, the supervisor is expected to continue addressing the problem through verbal warning(s), written warning(s), and, if warranted, discharge.

### **26.3.2 Written Reprimand**

A written reprimand is given at a formal meeting between the supervisor and the Employee. Within the reprimand the performance difficulties are documented and a corrective action plan is specified. A written reprimand is placed within the Employee=s personnel file and a copy is given to the Employee. A copy of the grievance procedure should accompany the written material.

### **26.3.3 Written Warning**

A formal written warning is more serious than a reprimand may involve a more extensive corrective action plan. Similar to the reprimand, a formal meeting occurs between the Employee and the supervisor and written documentation specifies the behavior in question, the corrective action and any follow-up recommended. Again, the grievance procedure should accompany the written materials that are placed within the personnel record and given to the Employee.

### **26.3.4 Probation**

Being placed on probation means that the Employee is no longer considered in good standing with the Town and states that if improvement is not noted, termination may occur. Similar to previous disciplinary actions, the Employee is presented with written documentation and is given a copy of the grievance procedure. A timeline should be specified for formal review of the performance.

### **26.3.5 Suspension**

Suspension may occur with pay or without pay depending on the circumstances of the Employee's behavior and attitude. If an investigation occurs to substantiate or disprove an allegation, the Employee is given the opportunity to present their side of the story, and is entitled to review the results of the investigation. In serious cases, if the allegation is substantiated, termination may be warranted. All written material is placed within the Employee=s file and a copy of the grievance procedure is given to the Employee.

### **26.3.6 Termination**

Termination may occur at the end of disciplinary proceedings.

### **ARTICLE 27 - TUITION REIMBURSEMENT**

**27.1** At least one year of continuous employment is required for an Employee to be considered for tuition reimbursement; and, at least two years of continuous employment is expected upon completion of the course of study.

**27.2** The maximum amount of reimbursement shall be twelve hundred (\$1,200.00) dollars per person, per fiscal year. The funding source for reimbursement shall be from the budget of the department where the Employee works.

**27.3** In order to be reimbursed, an Employee must achieve a 3.0 GPA for Undergraduate studies; for graduate studies, a "Pass" in the event of a "Pass/Fail" grading system.

**27.4** The institution where the Employee takes the course must be accredited and the course must be job-related, which is a determination to be made by the Department Head.

**27.5** If any time is lost in taking the course, it must be made up by the Employee in the same or next pay period. If time is lost taking a course mandated as a condition of employment, the Employee will be paid his/her normal rate of pay for said period.

**27.6** The Employee will be reimbursed for reasonable expenses (including fees, meals, lodging and transportation) while attending workshops, seminars, conferences or other professional improvement sessions with the advance approval of the Chief of Police.

**27.7** Employees who receive job related National or State certifications or licenses relating to and enhancing the work performed shall receive the amount of Ten Dollars (\$10) per week for each certification or license, added to the individuals salary. To be eligible, certification or license must be continually maintained. The certification or license shall not be a minimum requirement contained in the job description.

**27.8** Town Meeting has accepted the provisions of Chapter 41, Section 108L of the General Laws, hereafter known as the "Quinn Bill", which shall be the educational incentive program for any full-time Police Officer, except as hereafter provided. Payment of the Quinn Bill shall be weekly. In the event the Commonwealth of Massachusetts reduces its reimbursement to the Town below one-half the cost of such educational incentive base salary increase payments, then employees shall receive (a) one half such base salary increase payments plus the percentage amount of reduced reimbursement to the Town by the Commonwealth of Massachusetts, if any, or (b) the education incentive program payments

provided in Section 27.10, whichever are the greater.

**27.9** For any Employee who is ineligible to participate in the "Quinn Bill" program of Section 22.3, and who has attained no less than nine credits in police science from an accredited institution, shall receive ten dollars \$10 per credit, per year, for all credits towards a degree in the criminal justice field.

#### **ARTICLE 28 - TENURE**

**28.1** All Employees shall be granted tenure by the Town.

#### **ARTICLE 29 - SUCCESSORS**

**29.1** This Agreement shall be binding upon the successors and assigns of the parties hereto and no provisions, terms or obligations herein contained shall be affected, modified, altered, or changed in any respect whatsoever by the takeover assumption or contracting out of any plant, operation, function, or part thereof.

#### **ARTICLE 30 – SPECIAL THIRD-PARTY DETAILS**

**30.1** Employees covered by this Agreement shall be deemed by the Town as "Regular Full-Time Police Officers" for the purpose of determining eligibility to fill extra paid details (also known as Special Third Party Details).

**30.2** Priority for filling such details shall be given to the ranks of Police Officer and Sergeant. Priority shall not apply on any detail where three (3) or more Police Officers are assigned to work.

**30.3** Rates of pay and payment terms shall be the same as those for Regular Full-Time Police Officers.

#### **ARTICLE 31 - DURATION OF AGREEMENT**

**30.1** The provisions of this Agreement will be effective July 1, 2002 and will continue in full force and effect through June 30, 2005, and shall be automatically renewed from year to year thereafter, unless, at least four (4) months prior to the expiration date, either party notifies the other in writing by certified mail, return receipt requested, of its desire to renegotiate the Agreement.

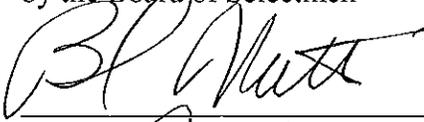
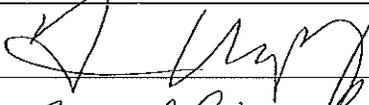
During the course of the negotiations for amendment or renewal of this

Agreement, the terms and conditions herein set forth shall continue in effect until a new Agreement is reached.

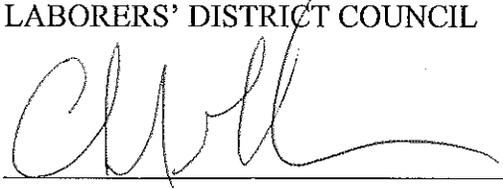
**ARTICLE 32 - EXECUTION**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 10th  
day of November, 2004.

TOWN OF NANTUCKET  
by the Board of Selectmen

  
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\_\_\_\_\_  
  
\_\_\_\_\_

LABORERS' DISTRICT COUNCIL

  
\_\_\_\_\_  
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**APPENDIX A**

The Town may convert to paying employees on a bi-weekly basis without further bargaining, provided that the Town gives employees ninety days advance notice prior to converting as required by M.G.L. c. 149, § 148.

127671\_1.DOC

**APPENDIX B**  
**ALCOHOL AND CONTROLLED SUBSTANCES TESTING**  
**POLICE AND PROCEDURES**

**1.0 POLICY**

It is the policy of the Nantucket Police Department that the use of controlled substances by employees who are on duty is prohibited. This policy incorporates any off duty use or misuse of alcohol or controlled substance that results in a positive alcohol or controlled substance test while on duty, with the noted exception of alcohol use in an investigative capacity sanctioned by the Nantucket Police Department or District Attorney's office. Transportation and evidentiary possession of controlled substances and alcohol by a police officer on active duty is allowed in accordance with Department Regulations.

**2.0 DEFINITIONS**

**2.1 Alcohol:**

The intoxicating agent in a beverage alcohol, ethyl alcohol, or other low molecular alcohol including methyl and isopropyl alcohol.

**2.2 Alcohol Concentration:**

Also called alcohol content, the alcohol in a volume of breath as indicated by an evidential breath test such as a breathalyzer, expressed in terms of grams of alcohol per 210 liters of breath.

**2.3 Alcohol Use:**

The consumption of any beverage, mixture or preparation, including any medications containing alcohol.

**2.4 Breath Alcohol Technician:**

(BAT) An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

**2.5 Confirmation/Confirmatory Test:**

In alcohol testing, a second test which follows a screening test with a result of 0.04 grams or greater of alcohol per 210 liters of breath, that provides quantitative data of alcohol concentration.

For controlled substance testing, a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen and that uses a different technique and chemical principle from that of the screen test

in order to ensure reliability and accuracy.

**2.6 Controlled Substance:**

In this policy the terms “drugs” and “controlled substances” are interchangeable and have the same meaning unless otherwise provided. These terms shall include marijuana, cocaine, opiates, including heroine, phencyclidine (PCP), and amphetamines, including methamphetamine.

**2.7 Controlled Substance Screening/Testing:**

This is a procedure to screen and/or test urine samples for the purpose of detecting the presence of amphetamines, cocaine metabolites, opiate metabolites, including heroine, phencyclidine, and marijuana metabolites.

**2.8 Permanent Full-Time Police Officer:**

Those employees covered by the collective bargaining agreement between the Town of Nantucket and Public Employees’ Local Union 1249 of the Laborers’ International Union of North America..

**2.9 Evidential Breath Testing Device**

(EBT) is a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath.

**2.10 GC/MS:**

A gas chromatography/mass spectrometry test that confirms an initial drug screen.

**2.11 Laboratory:**

A federal Department of Health and Human Services certified laboratory authorized by the Department to perform controlled substance screening/testing.

**2.12 Medical Review Officer:**

(MRO) A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the Department’s controlled substance testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test results together with his or her medical history and any other relevant biomedical information.

**2.13 On Duty:**

That period of time which constitutes a police officer’s work day, or when he or she has been recalled to work.

**2.14 Refusal to submit to an alcohol or controlled substance test:**

A police officer refuses to submit to testing when he or she:

- fails to provide adequate breath for testing without a valid medical explanation after receiving notice of the requirement for breath testing; or
- fails to provide adequate urine for controlled substance testing without a valid medical explanation after receiving notice of the requirement for urine testing; or
- engages in conduct that obstructs the testing process.

**2.15 Screening Test:**

(Screen or Initial Test) In alcohol testing, it is the initial procedure to determine if the police officer has a prohibited concentration of alcohol in his or her system. In controlled substance testing, it is an immunoassay screen to eliminate "negative" urine specimens from further consideration.

**2.16 Split Specimen/Sample:**

For controlled substance testing, it is a collection of urine divided into two containers for testing and re-testing purposes.

**2.17 Substance Abuse Professional:**

(SAP) A licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

**3.0 APPLICABILITY**

This policy and procedure is, therefore, applicable to all permanent full-time police officers, regular part-time police officers, summer special police officers in the Nantucket Police Department and to applicants to such positions.

**4.0 ALCOHOL AND CONTROLLED SUBSTANCE PROHIBITIONS**

**4.1 Alcohol Prohibitions:**

Police officers are prohibited from using alcohol while on duty and within four hours of going on duty, with the exception of special investigative assignments where alcohol use is necessary to facilitate an undercover assignment in accordance with Department Regulations.

**4.1.1 A police officer shall not:**

Use alcohol while on duty.

Report for duty or remain on duty within four hours of having consumed

alcohol.

Report for duty or remain on duty with an alcohol concentration of 0.04 or greater.

#### **4.2 Controlled Substance Prohibitions:**

This policy prohibits police officers from reporting for duty or remaining on duty when the police officer uses any controlled substances, except when the use is pursuant to the instructions of a physician. The Department shall require a police officer to inform his or her supervisor of any therapeutic drug use by the police officer.

##### **4.2.1 A police officer shall not:**

Report for duty or remain on duty while using any controlled substance, except when a physician has prescribed a substance which does not adversely affect the police officer's ability to work.

Report for duty, remain on duty, or perform a safety-sensitive function, if he or she has tested positive for controlled substances.

## **5.0 TESTING**

There are four situations in which a police officer shall be tested for the presence of controlled substances and/or alcohol in his or her system. They are (1) pre-employment testing, (2) reasonable suspicion testing, (3) return to duty or work testing, and (4) follow-up testing.

### **5.1 Pre-Employment Testing:**

Prior to a police officer being hired by the Department, he/she shall undergo testing for controlled substances. The police officer shall not begin work until the employer has received a verified negative test result from the medical review officer for the controlled substance test.

### **5.2 Reasonable Suspicion Testing:**

The employer shall require a police officer to submit to an alcohol test and/or controlled substance test when a supervisor or department representative has reasonable suspicion to believe that the police officer has violated the Department's prohibitions concerning the use or possession of alcohol and/or controlled substances. The supervisor or department representative shall base his or her determination that reasonable suspicion exists to require the police officer to undergo an alcohol test and/or controlled substance test on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the police officer. The observation may include indications of the chronic and withdrawal effects of controlled substances. The supervisor or department representative making the observations shall document in writing the specific facts, symptoms or observations which form the basis for

his or her reasonable suspicion.

- 5.2.1 The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the police officer.
- 5.2.2 Alcohol testing is authorized under the reasonable suspicion testing section only when the observations required to make the determination (See 5.3, *supra*) that reasonable suspicion exists are made during, just preceding, or just after the period of the work day that the police officer is required to be in compliance with the alcohol prohibitions.
- 5.2.3 If reasonable suspicion alcohol test is not administered within two (2) hours following the observations, the supervisor or department representative shall prepare and maintain on file a record stating the reasons the alcohol test was not administered promptly. If the test is not administered within eight (8) hours of the observation, the employer shall cease to attempt to administer the test and make a record of the reasons why the test was not administered within eight (8) hours.
- 5.2.4 The Department will not take action against any police officer based solely on the police officer's behavior and appearance with respect to alcohol use, unless an alcohol test was administered or the police officer refused to be tested. This does not prohibit the Department with independent authority from taking any action otherwise consistent with law or Department policy.
- 5.2.5 The supervisor or Department representative making the determination that reasonable suspicion exists to conduct an alcohol test and/or controlled substances test must have received sixty (60) minutes of training on alcohol misuse and sixty (60) minutes of training on controlled substance use.

**5.3 Return to Duty Testing:**

Before a police officer returns to duty after engaging in prohibited conduct concerning alcohol, the police officer shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

Before a police officer returns to duty after engaging in prohibited conduct concerning controlled substances, the police officer shall undergo a return-to-duty controlled substance test with a result indicating a verified negative result for controlled substance use.

**5.4 Follow-up Testing:**

Following a determination by a SAP that a police officer is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the police officer shall be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the SAP. The police officer shall be subject to a maximum of six (6) follow-up controlled substance and/or alcohol tests in the first twelve (12) months. The follow-up testing may continue for up to forty-eight (48) months from the date the police officer returns to duty.

**5.5 Refusal to be Tested:**

When the police officer refuses to be tested, the police officer is treated the same as if he or she had received a positive test result. A police officer refuses to submit to testing when he or she:

- fails to provide adequate breath for testing without a valid medical explanation after receiving notice of the requirement for breath testing; or
- fails to provide adequate urine for controlled substance testing without a valid medical explanation after receiving notice of the requirement for urine testing; or
- engages in conduct that obstructs the testing process.

**6.0 SCREENING/TESTING PROCEDURES**

6.1 A copy of these procedures shall be given to all police officers.

6.2 When reasonable suspicion testing, follow-up testing or return-to-duty testing is authorized, at least one supervisor shall accompany the police officer to the collection site.

6.3 When random testing is authorized, a supervisor may, but is not required to, accompany a police officer to the collection site.

6.4 When an on-duty police officer has been identified for testing, the police officer will be instructed to proceed as soon as reasonable to the designated collection site. Once the police officer has been notified to take a test, unless he or she is hospitalized, no sick or other leave may be authorized until the collection process is completed.

6.5 At the collection site, police officers are required to present photo identification.

6.6 When alcohol testing is required or authorized, a saliva or breath test shall be administered by the collector, also known as Breath Alcohol Technician (BAT), to detect the presence of alcohol.

- 6.6.1 Initial and confirmatory tests may only be administered with devices meeting the requirements of the National Highway Traffic Safety Administration's (NHTSA's) Model specifications for Alcohol Screening devices.
  - 6.6.2 An alcohol screen with a result of 0.04 grams/210 liters or greater shall be followed by a confirmation test that provides quantitative data of alcohol concentration.
  - 6.6.3 A police officer shall follow the instructions of the BAT and shall not eat, drink, put any object or substance into his or her mouth and, to the extent possible, not belch during the waiting period before the confirmation test.
  - 6.6.4 A confirmatory alcohol test shall not be conducted in less than 15 minutes nor more than 20 minutes from an alcohol screen with a result of 0.04 grams/210 liters or greater.
  - 6.6.5 If the police officer is unable to provide a sufficient amount of breath after reasonable attempts to do so, testing shall be discontinued and the appropriate Department official notified. The police officer shall be directed to obtain, as soon as practicable, an evaluation from a licensed physician, who is acceptable to the Department, concerning the police officer's medical ability to provide an adequate amount of breath. If the physician determines that a medical condition has, or with high degree of probability, could have precluded the police officer from providing an adequate amount of breath, then police officer's failure to provide an adequate amount of breath shall not be deemed to be a refusal to take the test. The physician shall provide the Department with a written statement of his/her conclusion.
- 6.7 When a controlled substance test is required or authorized, a test of the police officer's urine will be done to detect the presence of amphetamines, cocaine metabolites, opiate metabolites (including heroine), phencyclidine, and marijuana metabolites.
- 6.7.1 To deter dilution of specimens at the collection site, toilet bluing agents shall be placed in toilet tanks whenever possible, so that the reservoir of the water in the toilet bowl always remains blue. There shall be no other source of water in the enclosure where urination occurs.
  - 6.7.2 The collection site person shall ask the police officer who is to be tested to remove any unnecessary outer garments, such as a coat, that might conceal items or substances that could be used to tamper with or adulterate the

police officer's urine. The police officer may retain his or her wallet, but not briefcase or purse.

**6.7.3** The police officer may provide his/her specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy. In the exceptional event that there is an immediate requirement for specimen collection (e.g., an accident investigation), a public rest room may be used, providing the person collecting the specimen is of the same gender as the police officer being tested and accompanies the police officer to the rest room and ensures the integrity of the collection process.

**6.7.4** The police officer's urine specimen shall be divided into two containers by the collection site person in the police officer's presence. The two samples, called "primary" and "split" shall be sent for testing to a laboratory certified by the Department of Health and Human Services.

**6.7.5** The initial controlled substance screening shall be by enzyme immunoassay techniques test (EMIT) which shall be administered at a Department approved laboratory at Department expense. If this initial screen yields a positive result, a GC/MS will be conducted at Department expense on the original split urine sample provided by the police officer.

**A.** In the event that an officer receives a positive result, he/she may request an independent test. The independent test will be performed under the same or more stringent procedures as the original test. The officer will inform the union representative and the chief, in writing, of his/her intent to seek the test. The officer will be responsible for any costs associated with the independent test.

**B.** An officer requesting an independent test will be placed on administrative duty pending the outcome of said test.

**C.** If the result of the independent test is negative, the officer shall be reimbursed for the costs of the test and shall be paid for any overtime or details that he/she would have been eligible to perform pursuant to the collective bargaining agreement. In addition, the officer's file shall be expunged of the prior positive test result that led to the independent test.

**6.7.6** The minimum levels for positive controlled substance test results are:

DRUG GROUP	Initial EMIT Screen (ng/mL)	Confirmatory GC/MS Test (ng/mL)
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Amphetamines	1000	
Amphetamine		500
Methamphetamine		500*
Cocaine Metabolites	300	150**
Opiate Metabolites	300	
Morphine		300
Codeine		300
Phencyclidine	25	25
Marijuana Metabolites	50	15***

\* Specimen must also contain amphetamine at a concentration of greater than or equal to 200ng/mL.

\*\* Benzoylcegonine

\*\*\* Delta-9-tetrahydrocannabinol-9-carboxylic acid

**6.7.7** If the police officer is unable to provide a sufficient amount of urine, the MRO shall immediately refer the police officer for a medical evaluation to determine whether the police officer's ability to provide a specimen is genuine or constitutes a refusal to test. If the MRO makes a determination after the completion of the examination that the police officer is able to provide a sufficient urine sample, the police officer's refusal to do so shall be considered to be a refusal to test.

**6.7.8** The results of a positive EMIT controlled substance test shall be confirmed by GC/MS testing and sent to the MRO for review. The MRO verifies the positive result after review with the police officer. The MRO shall notify the police officer that he/she has 72 hours from such notification to request a re-test from the split sample at another laboratory certified by the Federal Department of Health and Human Services. The re-test shall be at the police officer's own expense. The MRO shall coordinate the re-testing of police officers.

## **7.0 CONSEQUENCES OF PROHIBITED CONDUCT**

Police officers facing disciplinary action under this section shall have all rights to a hearing and union representation provided in the applicable collective bargaining agreement between the union of which the police officer is a member and the Town.

- 7.1 A police officer who violates the alcohol prohibitions by having a confirmed alcohol test of .04 or more grams/210 liter, and/or violates the controlled substance prohibitions with a verified positive result from a controlled substance test, shall be suspended without pay for 15 working days. A second violation with a confirmed alcohol test of .04 grams/210 liters or more, or a second violation of the controlled substances provisions herein with a positive test result from a controlled substances test, shall result in discharge.
- 7.2 An applicant, including a police officer being promoted, may not receive the appointment/promotion if he/she receives a positive test result from a controlled substance test if said substance has not been prescribed by a doctor or is not an over-the-counter drug.
- 7.3 A police officer who violates the prohibition against possession of alcohol or controlled substances while on duty shall be suspended without pay for 15 working days. A second violation shall result in discharge. Except where possession of controlled substances and use of alcohol is allowed under Section 1.0.

## **8.0 CONFIDENTIALITY REQUIREMENTS AND RECORDS RETENTION**

The Department shall maintain records of all alcohol and controlled substances tests and their results in accordance with all applicable federal, state and local laws and regulations. The Department shall implement procedures to prevent the unauthorized disclosure or distribution of these records including the results of alcohol and controlled substances tests.

## **9.0 EMPLOYEE ASSISTANCE PROGRAM**

A police officer may request a referral to an Employee Assistance Program (EAP) for assessment, counseling and/or rehabilitation at any time. Participation in the Employee Assistance Program is voluntary, subject to the following:

- 9.1 Disciplinary action based on a violation of the alcohol and controlled substances prohibitions is not suspended by a police officer's participation in the EAP.
- 9.2 When a police officer violates an alcohol or controlled substances prohibition, the police officer must be evaluated by a substance abuse professional (SAP) designated by the Department who shall determine what assistance, if any, the police officer needs in resolving problems associated with alcohol misuse and/or controlled substance use. The police officer may not take a return-to-duty drug or

alcohol test until: (1) completion of a treatment program suggested by the SAP, and (2) a determination by the Department in connection with a recommendation by the SAP, that the police officer is fit for duty. The Town's insurance will cover the police officer for sixty days.

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