EQUAL EMPLOYMENT OPPORTUNITY, DISCRIMINATION, AND SEXUAL HARASSMENT POLICY FOR THE TOWN OF FOXBOROUGH

I. Introduction

It is the policy of Foxborough ("the Employer") to promote a professional and productive workplace in which all employees are treated with dignity and respect. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. Discrimination (including harassment), whether based upon race, color, gender, national origin, religion, ancestry, age, sexual orientation, disability, maternity leave, genetic information, gender identity, active military status, or another basis prohibited under state or federal anti-discrimination statutes, will not be tolerated. To achieve our goal of providing a workplace free from discrimination, we will implement the procedure described below to address any potential inappropriate conduct.

This policy applies to all employment practices and employment programs sponsored by the Employer. This policy shall apply, but not be limited to, the areas of:

- Recruitment,
- Selection,
- Compensation and benefits,
- Professional development and training,
- Reasonable accommodation for disabilities or religious practices,
- Promotion,
- Transfer,
- Termination,
- Layoff, and
- Other terms and conditions of employment.

This policy may apply to discrimination (including harassment) that occurs between co-workers that takes place outside the workplace (including, but not limited to, online conduct or conduct utilizing the internet or other electronic media). When the conduct complained of occurs outside of the workplace, the Employer may consider the following and other factors in assessing whether the conduct constitutes conduct in violation of this policy:

- whether the event at which the conduct occurred is linked to the workplace in any way, such as at an Employer-sponsored function;
- whether the conduct occurred during work hours;
- the severity of the alleged outside-of-work conduct;
- the work relationship of the complainant and alleged harasser, which includes whether the alleged harasser is a supervisor and whether the alleged harasser and complainant come into contact with one another on the job;

- whether the conduct adversely affected the terms and conditions of the complainant's employment or impacted the complainant's work environment.

Because the Employer takes allegations of unlawful discrimination and harassment seriously, we will respond promptly to complaints and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of discrimination and harassment, **the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the legal definitions of discrimination or harassment.**

II. Examples of Prohibited Discriminatory Behaviors

It is not possible to list all the circumstances that may constitute discrimination in violation of this policy. Discrimination may take many forms, including both verbal and nonverbal behaviors. Prohibited behavior includes, but is not limited to, the following behaviors connected to someone's membership in one or more groups protected by law as noted in the first paragraph above: slurs or other derogatory comments; sharing demeaning pictures, cartoons, or jokes; demeaning gestures, and; any conduct constituting sexual harassment.

III. Definition of Sexual Harassment

In Massachusetts, the legal definition for sexual harassment is this:

"Sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

(a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions;

or,

(b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male

or female workers may also constitute sexual harassment. The victim or complainant as well as the harasser may be male or female. The victim or complainant does not have to be of the opposite sex. The complainant does not have to be a person directly harassed, but may be someone affected by the offensive conduct.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances - whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences, and;
- Discussion of one's sexual activities.

Special care should be taken with respect to one's conduct and comments in the presence of minors. As a general rule, all conduct or comments of a sexual nature in the presence of minors shall be considered a violation of this policy, whether or not such conduct or comments are unwelcome.

All employees should take special note that, as stated below, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the Employer.

IV. Complaints of Sexual Harassment

If any of our employees believes that they have been subjected to sexual harassment, it is our policy to provide the employee with the right to file a complaint with our organization. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting Town Manager William Keegan bkeegan@foxboroughma.gov or if you prefer, you may file your complaint with Assistant Town Manager Mary Beth Bernard mbbernard@foxboroughma.gov. Both Mr. Keegan and Ms. Bernard can also be reached at (508)-543-1219. These persons are also available to discuss any concerns you may have and to provide information to you about this policy and our complaint process.

V. Sexual Harassment Investigation

When a complaint is received, the allegation will be promptly investigated in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed sexual harassment. When we have completed our investigation, we will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where appropriate we will also impose disciplinary action.

Given the sensitive nature of complaints of discrimination and/or harassment, all parties and witnesses in a complaint, as well as supervisors, etc. who are aware of a complaint or investigation thereof, are strongly encouraged to maintain this information as confidential, so as not to negatively impact an investigation.

VI. Complaints Concerning Other Forms of Discrimination and/or Harassment

Complaints alleging forms of discrimination and/or harassment, other than sexual harassment, will be processed in accordance with Sections IV and V, above.

VII. Retaliation

Any retaliation against an individual who has formally or informally complained about discrimination (including harassment), or has cooperated with an investigation of a discrimination complaint, is prohibited.

Retaliation can be overt or subtle. Retaliation may include, but is not limited to, treating a complainant or witness differently, more harshly or in a hostile manner; physical interference with movement such as blocking a path; derogatory comments or action which would tend to have a chilling effect on other complainants; sudden investigations of the complainant's private life, or; sudden strict enforcement of work rules. Retaliation in any form will not be tolerated.

VIII. Disciplinary Action

If it is determined that discrimination, harassment, retaliation, or other inappropriate conduct has been committed by one of our employees, the Employer will take such action as is appropriate under the circumstances. Such actions may include: counseling, informal or formal reprimands, written or verbal warnings, suspension, reduction in pay, reduction in duties, transfers, and other formal sanctions, **up to and including termination of employment.**

IX. State and Federal Remedies

In addition to the above, if you believe you have been subjected to unlawful discrimination and/or harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC – 300 days; MCAD – 300 days).

1. **The United States Equal Employment Opportunity Commission**

John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
Phone: (800) 669-4000
TTY: (800) 669-6820

2. **The Massachusetts Commission Against Discrimination**

Boston Office One Ashburton Place Sixth Floor, Room 601 Boston, MA 02108 Phone: 617-994-6000 TTY: 617-994-6196	**Springfield Office** 436 Dwight Street Second Floor, Room 220 Springfield, MA 01103 (413) 739-2145
Worcester Office Worcester City Hall 455 Main Street, Room 100 Worcester, MA 01608 (508) 799-8010 (508) 799-8490 - FAX	**New Bedford Office** 800 Purchase St., Rm 501 New Bedford, MA 02740 (508) 990-2390 (508) 990-4260 - FAX

X. Reasonable Accommodation

Employees seeking reasonable accommodations may submit their request in writing to either Town Manager William Keegan or Assistant Town Manager Mary Beth Bernard at 40 South Street, Foxborough MA, 02035.

XI. Equal Employment Opportunity Statement

The Employer will not discriminate in its employment practices, on the basis of race, color, gender, national origin, religious creed, ancestry, age, sexual orientation, gender identification, disability, maternity leave, genetic information, active military status, or another basis prohibited under state or federal anti-discrimination statutes. This shall include such areas as recruitment, selection, compensation and benefits, professional development and training, reasonable accommodation for disabilities or religious practices, promotion, transfer, termination, layoff, and other terms and conditions of employment.

Authorization

Reviewed by the Foxborough Board of Selectmen Date: June 23, 2015

Approved by William G. Keegan, Jr., Town Manager

William Keegan Jr. Date: June 24, 2015