

## Chapter 68

### PERSONNEL POLICIES

**[HISTORY: Adopted by the Town Board of the Town of Benton as indicated in article histories. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Code of Ethics — See Ch. 24.

Residency requirements — See Ch. 85.

Salaries and compensation — See Ch. 88.

#### ARTICLE I

##### Employment Policy

**[Adopted 7-9-2008 by L.L. No. 2-2008<sup>1</sup>]**

##### **§ 68-1. Intent.**

- A. This document is intended as a guide for employees, department heads and supervisors. It is not to be construed as a contract of employment nor does it in any way limit the application of the provisions of federal, state and local statutes, rules, regulations or case law.
- B. The Town retains the exclusive right to manage, supervise, and direct Town employees, including the right to determine the time, place and manner regarding the delivery of Town services. The Town Board retains the right to suspend, discharge or otherwise discipline employees, and to hire, lay off, assign, transfer, promote or determine the necessary qualifications for prospective or existing employees.

##### **§ 68-2. Definitions of Town employee positions.**

As used in this article, the following terms shall have the meanings indicated:

**ELECTED OFFICIALS** — Employees that are elected (voted by the Town residents) into a position within the Town.

**INTRODUCTORY** — Employees that are being evaluated to determine whether further employment with the Town is appropriate.

**PART-TIME** — Employees that are regularly assigned to work less than 20 hours per week but do not fall into the categories of "temporary" or "introductory."

**REGULAR FULL-TIME** — Employees that are regularly scheduled to work 40 hours per week.

**REGULAR PART-TIME** — Those that are regularly assigned to work less than 40 hours per week but at least 20 hours per week.

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1. Editor's Note: This local law also superseded former Ch. 68, Personnel Policies, adopted June 1990.

TEMPORARY — Employees that are hired to temporarily supplement the work force. Employment is of a limited duration.

**§ 68-3. Work hours.**

Highway Department. Highway workweek will consist of 40 hours per week with scheduled hours to be determined by the Highway Superintendent. Employees who work a minimum of 40 hours per week shall be deemed to be full-time employees for the purpose of this policy.

**§ 68-4. Overtime.**

Time and a half for each hour worked, or fraction thereof, in excess of the normal scheduled workday or beyond a forty-hour workweek. For holidays, eligible employees will receive their normal eight-hour rate of pay plus time and a half paid for any hours worked on that holiday.

**§ 68-5. Paid holidays.**

Full-time employees shall have New Year's Day, Presidents' Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving, Christmas Day, and Columbus Day as an eight-hour paid holiday.

**§ 68-6. New employee probationary/introductory period.**

- A. The probationary 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 uses this period to evaluate employee capabilities, work habits and overall job performance. Either the employee or the Town may end the employment relationship at will at any time during or after the introductory/probationary period, with or without cause or advance notice.
- B. All new employees work on a probationary basis for the first 26 weeks after their date of hire. If the Town determines that the designated probationary/introductory period does not allow sufficient time to thoroughly evaluate the employee's performance, this period may be extended for a specified period.
- C. Upon satisfactory completion of the probationary period, employees enter the regular employment classification.
- D. During the probationary/introductory period, new employees are eligible for any benefits that are required by law (workers' compensation, social security, unemployment insurance). They may also be eligible for other Town-provided benefits, subject to terms and conditions of each benefit program.
- E. Newly hired employees will normally be employed at rate which is within 25% of the established rate for the position. However, the Town Board reserves the right to employ individuals at a higher or lower rate depending on the applicant's qualifications, experience and the current employment market.

**§ 68-7. Wage guidelines.**

- A. Upon the Highway Superintendent's review and recommendation of a highway employee, the following wage guidelines are suggested:
  - (1) First year: 75% of the established wage for the position.
  - (2) Second year: 80% of the established wage for the position.
  - (3) Third year: 85% of the established wage for the position.
  - (4) Fourth year: 90% of the established wage for the position.
  - (5) Fifth year: 95% of the established wage for the position.
  - (6) Sixth year: 100% of the established wage for the position.
- B. Wage increases requested must have the final approval of the Town Board.

**§ 68-8. Immigration law compliance.**

- A. The Town is committed to employing only United States citizens and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin.
- B. In compliance with the Immigration Reform and Control Act of 1986, each new employee must complete the Employment Eligibility Verification Form (I-9) and must provide documentation establishing identity and employment eligibility. Former employees rehired must also complete the I-9 form if it has been longer than three years or if it is no longer retained with the Town.
- C. Employees may raise questions or complaints about the immigration law without fear of reprisal.

**§ 68-9. Equal employment opportunity.**

- A. The Town of Benton does not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, national origin, age, disability, or any other characteristic protected by law.
- B. The Town will make reasonable accommodations for qualified individuals with known disabilities to the extent required by law.
- C. Any employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor or the Town Supervisor. Employees may raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

**§ 68-10. Attendance and punctuality.**

To maintain a safe and productive work environment, the Town expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on

other employees and on the Town. In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they should notify their supervisor as soon as possible in advance of the anticipated tardiness or absence. Poor attendance and excessive tardiness are disruptive. Either may lead to disciplinary action, up to and including termination of employment.

**§ 68-11. Hiring of relatives.**

The employment of relatives in the same area of an organization may cause serious conflicts and problems with favoritism and employee morale. In addition to claims of partiality in treatment at work, personal conflicts from outside the work environment can be carried into day-to-day working relationships. Therefore, the Town prohibits the hiring of relatives for regular full-time and regular part-time jobs. For the purpose of this policy, a relative is a spouse, parent, child, sibling, niece, nephew, or anyone whose relationship with the employee is similar to that of persons who are related by marriage.

**§ 68-12. Personal appearance.**

When working or representing the Town of Benton, employees are expected to present a clean and neat appearance and to dress according to the requirements of their position.

**§ 68-13. Employee conduct and work rules.**

- A. To ensure orderly operations and to provide a positive work environment, the Town expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization.
- B. The following are examples of infractions of rules of conduct that may result in disciplinary action, up to and including termination of employment; they are unacceptable in the workplace:
  - (1) Theft, inappropriate removal, possession or use of Town property.
  - (2) Falsification of timekeeping records.
  - (3) Working under the influence of alcohol or illegal drugs.
  - (4) Possession, use of, distribution, sale, or transfer of alcohol or illegal drugs in the workplace, while on duty, or while operating employer-owned vehicles or equipment.
  - (5) Fighting or threatening violence in the workplace.
  - (6) Negligence or improper conduct leading to damage of employer-owned or customer-owned property.
  - (7) Violation of safety or health rules.
  - (8) Sexual or other unlawful or unwelcome harassment.
  - (9) Possession of dangerous or unauthorized materials, such as explosives in the workplace. Firearms will not be allowed on Town property unless contained within their personal vehicle or allowed through hunting privileges.

**§ 68-14. Progressive discipline.**

- A. Progressive discipline means that, with respect to most disciplinary problems, these four steps will normally be followed:
  - (1) First offense will be a verbal warning.
  - (2) Second offense will be a written warning.
  - (3) Third offense: suspension with or without pay.
  - (4) Last offense may lead to termination of employment based on the severity of the problem or the number of occurrences.
- B. The Town recognizes that there are certain types of employee problems that are serious enough to justify either a suspension, or, in extreme circumstances, termination of employment without going through the progressive discipline steps.
- C. While it is impossible to list every type of behavior that may be deemed a serious offense, the employee conduct and work rules section<sup>2</sup> includes examples of problems that may result in immediate suspension or termination. However, the problems listed are not all necessarily serious offenses, but may be examples of unacceptable conduct that will trigger progressive discipline procedures.

**§ 68-15. Bereavement.**

Regular full-time employees shall be entitled to:

- A. Three (workday) days' leave, with pay, on the death of the employee's immediate family member; being spouse, parent, or child.
- B. One (workday) days' leave, with pay, on the death of an in-law, grandparent, or other close relative.
- C. Under unusual circumstances, additional unpaid bereavement days may be granted with approval of the Town Supervisor (personal leave may be used, if time is available to employee).

**§ 68-16. Personal leave/sick time.**

Pertains to regular full-time employees (Subsections A through D) (based on an eight-hour day):

- A. Any employee's personal leave hours must be preapproved by the department head or the Town Supervisor.
- B. Employees hired prior to January 1, 2004, shall receive 96 hours per year of personal leave/sick time, with pay. Hours may be accumulated at the rate of eight hours per month, until a total of 960 hours are accumulated.
- C. Employees hired after January 1, 2004, with prior 12 months' employment with the Town, shall receive 96 hours per year of personal leave/sick time, with pay. Hours may be

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2. Editor's Note: See § 76-13.

accumulated at the rate of eight hours per month, until a total of 240 hours are accumulated. New regular full-time employees hired after January 1, 2008, receive 64 hours of personal leave/sick time per year. Hours may be accumulated at the rate of 5.333 hours per month until a total of 64 hours are accumulated.

- D. In the event of discharge or death of an employee, his/her accumulated unused personal leave/sick time hours shall be canceled and will not be paid to the employee or any beneficiary.
- E. All Town employees absent for three or more consecutive workdays must acquire a physician's statement for their reason of absence and a health approval to return to work.

**§ 68-17. Retirement.**

- A. Town Supervisor and Board members must receive written notification six months in advance of any employee's planned retirement date. The Town Board will address accumulated unused personal time payment options at the request of the employee up to one year prior to retirement. Final redemption or payment will be agreed upon through the Town Board and the employee. [Amended 9-12-2012 by L.L. No. 3-2012]
- B. Three options are available for redemption of accumulated hours:
  - (1) The employee may redeem hours in return for equal payment toward extended health benefit coverage, after retirement.
  - (2) The employee may receive monetary reimbursement for each accumulated hour to be redeemed. The hourly dollar amount will be determined by averaging the regular hourly rate paid for the last five years of hourly employment; total payment will be made to the employee in 48 equal payments (one per two-week pay period) or on a twenty-four-month time schedule.
  - (3) The employee may request an alternative distribution to be determined and approved by the Town Board.
- C. New York State retirement is available to all eligible employees; depending on the date of hire (DOH), the employee may be required to contribute a portion of his/her wages to the New York State Retirement System.

**§ 68-18. Vacation time.**

Based on an eight-hour day, regular full-time employees vacation must be approved in advance by your supervisor. Vacations may be denied based on work load.

- A. One full year of employment = 40 hours.
- B. Two plus years of employment = 80 hours.
- C. Ten plus years of employment = 120 hours.

**§ 68-19. Workers' compensation.**

- A. Employees (hourly, salary or elected) who are injured or become ill as a direct result of

their job are covered under the New York State Workers' Compensation Law. The carrier for the Town's claims is Yates County Workers' Compensation Insurance Program.

- B. If an employee is injured or becomes ill, he/she should report the injury or illness to the department head, and required reports will be forwarded to Yates County. Cash benefits are not paid for the first seven days of the disability. Necessary medical care is paid for no matter how short or long the length of disability.
- C. Employees who are unable to work for more than seven days receive cash benefits. The amount that an employee receives is based upon his/her average weekly wage, up to \$500 per week maximum. The employee may use any unused annual leave to cover any time that is not covered by workers' compensation.

**§ 68-20. Unemployment insurance.**

Unemployment insurance is paid by the Town. Employees subject to reduction in force, or reasons deemed other than misconduct, as determined by the New York State Department of Labor, are eligible for unemployment benefits.

**§ 68-21. Disability insurance.**

- A. The Town purchases, at Town expense, New York State disability insurance for all full-time and regular part-time employees, plus Highway Superintendent, Town Clerk, Assessor and Supervisor Bookkeeper.
- B. Over 20 hours average workweek, employees become eligible for disability coverage after five days of missed work and appropriate medical confirmation of the disability.
- C. When an employee qualifies for payment of New York State disability benefits for any day, the Town will supplement the difference between such benefit and the employee's regular daily pay for each day such day paid for under the contract of insurance. Employees shall receive 100% of regular salary during periods of disability for the first three months of each period and 80% for the remaining three months. Any money paid by the insurance company will be paid to the Town. Employees receiving disability benefits under this section shall not, during the time for which said benefits are paid, accrue paid leave of any type under this policy. Disability claims due to pregnancy will be processed in accordance with this section. When a permanent employee has received disability benefits as provided in this section for the maximum period permitted, said employee shall report for work within 10 days after the last day for which benefits were payable. If an employee does not report for work, his/her employment will be terminated on the 10th day after the cessation of benefits.

**§ 68-22. Health insurance.**

- A. The Town Board will annually review and select the health care insurance coverage plan for eligible Town employees.
  - (1) Highway Superintendent and Highway full-time employees: eligible for family coverage plan.

- (2) Town Clerk, full-time: family plan.
  - (3) Assessor, full-time: family plan.
  - (4) Code Enforcement: single plan.
  - (5) Bookkeeper: single plan.
  - (6) Town Supervisor: single plan.
  - (7) Town Board: single plan.
- B. Personnel elected, appointed or hired on January 1, 2007, or after who qualify for health insurance benefits will be responsible for contributing a percentage of their eligible policy expense with such percentage to be fixed by the Town Board. Such percentage may from time to time be changed as the Town Board may determine. Additional family members may be added at participant's own expense. [Amended 1-12-2011 by L.L. No. 1-2011]
- C. Personnel elected, appointed or hired prior to January 1, 2007, who qualify for health insurance benefits will be responsible for contributing a percentage of their eligible policy expense with such percentage to be fixed by the Town Board. Such percentage may from time to time be changed as the Town Board may determine. Additional family members may be added at participant's own expense. [Amended 1-12-2011 by L.L. No. 1-2011]
- D. Some employees may be eligible for paid Town health insurance benefits, but have proven health coverage from another source or health group. If Town health insurance is waived, employees may be compensated in a monetary amount consisting of \$1,500 per year. Compensation will be included in regular pay, payments as an insurance credit.
- E. Eligible classification of each participant will be reviewed by the Town Board annually.

**§ 68-23. Drug and alcohol use.**

- A. It is the Town's desire to provide a drug-free, healthful and safe workplace. To promote this goal, all employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.
- B. While on Town premises and while conducting business-related activities off Town premises, no employee may use, possess, distribute, sell or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.
- C. Violations of this policy may lead to disciplinary action or immediate termination of employment and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences.
- D. Reference updated Amtek "Substance-Free Workplace Policy and Substance Testing Policy."

**§ 68-24. Business travel expenses.**



- A. The Town will reimburse employees for reasonable business travel expenses incurred while on assignments away from the normal work location. All business travel must be approved in advance by the immediate supervisor.
- B. When approved, the actual cost of travel, meals, lodging and other expenses directly related to accomplishing business travel objectives will be reimbursed by the Town. Employees are expected to limit expenses to reasonable amounts.
- C. When travel is completed, employees should submit completed travel expenses to their immediate supervisor. Vouchers must be accompanied by receipts from the individual to be accepted for reimbursement. No receipts; no reimbursement.
- D. Abuse of this travel expense policy, including falsifying expenses that were not incurred by the employee, can be grounds for disciplinary action, up to and including termination of employment.
- E. Employees who are involved in an accident while traveling on business must promptly report the accident to their supervisor.
- F. Vehicles owned, leased or rented by the Town may not be used for personal use.
- G. Additionally, employees who use their own vehicles for Town purposes will be reimbursed for mileage at a rate set by the Town Board. Mileage records should be kept. The mileage reimbursement request must be submitted to the supervisor for approval prior to submission to the Town Board.
- H. For off-site mandatory training, the Town will cover an hourly employee's time, mileage and course fees, if prior approval was received by their supervisor. Reimbursement hours will be calculated based on the actual travel time plus the actual classroom schooling time. Voluntary training will be dealt with on a case-by-case basis.

**§ 68-25. Military leave.**

All employees will be covered for military leave in accordance with the Military Law of the State of New York. Employees shall notify their supervisors as far in advance as possible of the required military assignments and no later than the workday following receipt of the official notice.

**§ 68-26. Jury duty.**

- A. An employee selected for jury duty shall receive paid leave when attendance as a juror is required for any regularly scheduled workdays while on jury duty.
- B. Employees on jury duty leave shall remit to the employer all remuneration received as a juror.
- C. To be eligible for the above benefit, the employee will cooperate with the Town by notifying the Town through the department head immediately upon being summoned as a juror; and may possibly request a one-time deferral of jury duty if and whenever, in the Town's judgement, such a request is necessary.

**§ 68-27. Resignation.**

- A. Resignation is a voluntary act initiated by the employee to terminate employment with the Town. Although advance notice is not required, the Town requests at least two weeks' written resignation notice from the employee.
- B. Prior to an employee's departure, an exit interview will be scheduled to discuss the reasons for resignation and the effect of the resignation on the employee's benefit package with the Town.
- C. Upon resignation of an employee, accumulated annual vacation time will be forfeited.

**§ 68-28. Terminated employees.**

All terminated employees shall report to the supervisor on their last day of employment. Employees who leave the employment of the Town of Benton, for whatever reason, shall be required to turn in all keys, uniforms, and Town equipment before he/she is issued his/her last paycheck.

**§ 68-29. Town vehicles.**

No personal use of Town vehicles will be allowed. Vacationing employees will leave Town vehicles at the Town's highway garage. Only personnel required to be on twenty-four-hour call are permitted to take Town vehicles for Town use.

**§ 68-30. Mileage.**

Mileage shall be paid for travel relating to Town business at the discretion of the Town Board.

**§ 68-31. Sexual harassment.**

- A. It is the policy of the Town of Benton that all employees have a right to work in an environment free of sexual harassment.
- B. Harassment on the basis of sex is a violation of Section 703 of Title VII. Unwelcome sexual advances, unwanted touching, or other verbal or physical contact constitutes sexual harassment when submission to such conduct is made, either explicitly or implicitly. This conduct by an individual may be used as a basis for an employment decision of possible termination; as this behavior may interfere with other employees' work performance and create an intimidating, hostile or offensive work environment.

**§ 68-32. Conflicts of interest.**

- A. Employees and representatives of the Town have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. An actual or potential conflict of interest occurs when an employee or representative is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of the Town's business dealings. For the purpose of this policy, a relative is a spouse, parent, child, sibling, niece or nephew, or person who is related by blood or marriage.

- B. If employees have any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose to an officer of the Town as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.
- C. Personal gain may result not only in cases where an employee or relative has a significant ownership in a firm with which the Town does business, but also when an employee or relative receives a kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealings involving the Town.

**§ 68-33. Smoke-free environment.**

- A. All buildings and vehicles owned/leased by the Town of Benton shall be smoke-free.
- B. Employees will not be permitted to use tobacco products of any kind in any building or vehicle owned by the Town.
- C. Any violation of this rule by employees will be subject to disciplinary action.

**§ 68-34. Cell phone use.**

Cell phones may not be used while operating any Town vehicles.

**§ 68-35. Amendments.**

The Town Board reserves the right to further amend the Employee Policy from time-to-time and shall resolve any disputes arising from this Town Employment Policy. If changes are necessary, the changes shall be authorized by resolution of the Town Board.