

JPD

## Employment Agreement

THIS AGREEMENT, made and entered into on the date set forth below, between the Town of Longmeadow, a Massachusetts municipal corporation, acting by and through its Town Manager and John P. Dearborn, the Chief of the Longmeadow Fire Department, WITNESSETH:

WHEREAS the Town through the Town Manager desires to employ the services of John P. Dearborn as Chief of the Longmeadow Fire Department and John P. Dearborn desires to enter upon and continue such employment;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

### Section 1, Employment:

The Town employs John P. Dearborn and he hereby, accepts employment as the Chief of the Longmeadow Fire department.

### Section 2, Duties:

The Chief shall perform all duties and functions as specified in the applicable Massachusetts General Laws, rules or regulations of the Commonwealth, the by-laws, rules or regulations of the Town of Longmeadow, and such other duties and functions as the Manager shall from time to time legally assign. Such duties shall include, without thereby limiting the foregoing generally, the following:

- A) The Chief shall supervise the daily operation of the Fire Department.
- B) The Chief shall supervise all departmental personnel.
- C) The Chief shall be responsible for the preparation and submission of the Fire Department and EMS budgets.
- D) The Chief shall give reports to the Town Manager either orally or in writing when requested or required in order to ensure the proper communication between the Manager and the Fire Department.
- E) The Chief shall be responsible for all departmental expenditures, as well as the receipt of funds and property in the custody of the Department.
- F) The Chief shall supervise and maintain control of all departmental equipment and motor vehicles belonging to or used by the Town.
- G) The Chief shall establish uniforms, equipment and vehicle specifications for the Fire Department.

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- H) The Chief shall be in charge of all call or voluntary firefighters.
- I) The Chief shall be responsible for the supervision and control of all training programs for Department personnel and the assignment of personnel to such programs.
- J) The Chief shall maintain the discipline of department personnel; the issuing of orders, rules, regulations, policies and procedures (SOGs), and the assignment to tours, shifts and duties of all departmental personnel.
- K) The Chief shall be available for hearings before the Select Board of the Town at which the Fire Department is required to appear and before Town Meeting when necessary.
- L) The Chief shall be responsible for planning, directing, staffing and coordinating fire prevention and firefighting operations.
- M) The Chief shall be responsible for communications with the public, including the media, on matters related to fire safety, fire operations and Department policy.
- N) The Chief shall serve as the Emergency Management Director and be responsible for duties associated with that position, including homeland security and civil defense.

Section 3, Hours of Work:

The Chief is “on duty” twenty-four (24) hours per day. As a responsible manager, he will devote such time and energy to the management of the Department as required. Attendance at evening meetings of the Select Board and other municipal boards, as well as Town meetings, as needed, is expected.

If the Chief will be absent from the Town during normal business hours for a duration longer than one (1) day or more, he shall notify the Town Manager and shall advise the Town Manager who he has designated to be in charge during his absence.

Section 4, Indemnification:

The Town agrees that it shall defend, save harmless and indemnify the Chief against any tort, professional liability claim or demand or other civil or criminal legal action, arising out of an alleged act or omission occurring in the performances of the Chief's duties as Fire Chief of the Town, to the extent permitted by law.

Section 5, Insurance:

- A) The Town agrees to furnish, at its expense, professional liability insurance for the Chief with liability limits of One Million (\$1,000,000.00) Dollars.

- B) The Chief shall, be eligible for all health and life insurance benefits for which other non-bargaining unit, general government employees are eligible. The Town agrees to contribute towards the cost of such insurance programs an amount or percentage not less than the highest applicable amount or percentage available to firefighters of any rank of the Fire Department.
  
- C) As a sworn member of the Fire Department, the Chief shall be entitled to injured-on-duty benefits as provided in Chapter 41, Section 111F of the Massachusetts General Laws.

Section 6, Professional Development:

The Town recognizes its obligation to the professional development of the Chief, and agrees that the Chief shall be given adequate opportunities to develop his skills and abilities as a fire service or public safety administrator; accordingly, the Chief will be allowed to attend the Massachusetts, and Western Massachusetts, training conferences each year without loss of vacation or other leave, and will be reasonably reimbursed by the Town for expenses incurred while attending or traveling to the aforementioned conferences, when held in Massachusetts. Town Manager approval must be sought for out-of-state travel and for attendance at other conferences.

The Town agrees to pay for the professional dues and subscriptions of the Chief for his continuation in and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional growth and advancement, and for the good of the Town, within the discretion of the Town Manager and budgetary limits.

Section 7, Automobile:

The Town shall provide a vehicle for use by the Chief and pay for all attendant operating and maintenance expenses and insurance. Said vehicle is to be used by the Chief in connection with the performance of his duties as Chief and for his professional growth and development. It may be used for reasonable personal reasons locally, since the Chief is "on call" in the event of an emergency requiring his response.

Section 8, Compensation:

The Chief shall, while employed by the Town, be paid a weekly amount in accordance with the Professional, Technical and Administrative Scale, including annual steps, plus COLAs as adopted and applied to that scale. The Chief's base pay for the first year of the contract shall adhere to the following schedule: Grade 6, Step 12. Chief will receive a step increase on his anniversary date in accordance with the personnel manual for the duration of this Agreement.

In addition to his base salary, in each of the contract years, the Chief shall receive an 10% EMS stipend for maintaining basic EMT certification.

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The Chief shall receive an annual stipend of twenty thousand dollars (\$20,000) for serving as the Town's Emergency Management Director, payable in regular increments each payroll period.

Further, the Chief shall receive the same number of vacation days, personal hours, bereavement days and uniform allowance as any of the regular firefighters of any rank of the Town. These benefits shall be calculated based upon an anniversary date of July 10. The Chief's sick leave credit shall accrue at the rate of one day per month of employment. Sick leave shall be allowed in the following cases:

- a) Illness or physical incapacity, exclusive of disabilities covered by injured-on-duty leave.
- b) Enforced quarantine in accordance with community health regulations.
- c) Sick leave shall not be available when the incapacity is the result of drug or alcohol abuse, deliberately self-inflicted wounds, or is a disability for which another employer is liable under State Workers' Compensation law, except as provided in d.
- d) To attend bona fide alcoholic or drug rehabilitation programs.

The Chief may carry forward up to five (5) vacation days annually. Such days, including any other accrued but unused vacation and personal days, will be paid out upon the Chief's retirement. No accumulated sick leave will be paid out upon retirement.

Section 9, Discipline and Discharge:

- A) It is agreed that the Chief can be suspended without pay or discharged only for just cause, upon proper notice and only after a hearing at which the Chief shall have the right to be represented by counsel. The Chief shall have the option of choosing whether any such hearing shall be closed to the public or be held as an open or public hearing.
- B) The Chief may appeal any suspension without pay or discharge under Section A to a committee of arbitrators consisting of three (3) persons. The three persons shall be chosen as follows: one by the Town, one by the Chief, and one by the two so chosen. A majority of the three (3) member committee shall be sufficient to uphold the discipline or discharge or to reverse the discipline or discharge decision. Alternatively, the Chief and the Town may select a different arbitrator by mutual agreement.
- C) The Chief may appeal any discipline or discharge upheld by the committee of arbitrators in accordance with the State Arbitration Act.

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- D) The Chief, in consideration of the hearing rights set forth in this Section, hereby waives any and all rights to litigate a suspension or discharge in any other forum or under any statutory authority, including tenure and antidiscrimination statutes, and to submit any and all such issues to arbitration as provided herein.
- E) If the Town Manager wishes to terminate the employment of the Chief without cause at any anniversary date of this Agreement, he will be given a six (6) month notice, in writing. Upon the effective date of such termination, the Chief shall have the option to resume employment in the rank immediately below Chief with full seniority privileges from his original date of attaining the rank of Captain and initial date of hiring, or to resign, in which case he shall be given severance pay of three (3) months' salary.
- F) In any situation where the Chief is reasonably suspected of or charged with a crime or serious conduct unbecoming a Fire Chief, the Manager may place the Chief on paid suspension until a hearing as provided in Section A shall be convened, after which the Manager may, if it considers it appropriate, place the Chief on unpaid suspension pending disposition of any criminal charges or any investigation being conducted by federal or state authorities into his conduct. The Manager and the Town shall not be thereafter liable to any obligation of wage payments during such suspension period unless the Manager's action is properly found by the arbitration panel to have been arbitrary, capricious and lacking of any reasoned basis.

Section 10, Inventions Provision:

The Chief hereby assigns and will promptly disclose and assign to the Town, exclusively, all inventions, discoveries, improvements, devices, tools, machines, apparatus, appliances, programs, designs, practices, methods, formulae, products, trade secrets and the like (hereinafter collectively called "inventions"), directly useful in or related to the Town's business which he makes, originates, conceives or reduces to practice, either solely or jointly with others, during the term of his employment by the Town, and the Chief further agrees that during the term of his employment without charge to the Town, but at its expense, he will execute, acknowledge and deliver any and all papers necessary to the Town to obtain patents or copyrights for its own benefit on said inventions in any and all countries, said patents and applications for patents and copyrights and such inventions to remain the property of the Town.

Section 11, Disability Clause:

If, in the reasonable determination of the Town Manager, supported by competent medical authority, the Chief shall become unable to perform the duties required of him because of serious physical, mental or emotional disability or other incapacity, the Town Manager may, upon at least ninety (90) days' written notice, terminate his employment. Such notice of termination shall not be effective if prior to the effective date of such notice, the Chief's disability or other incapacity shall no longer prevent him from performing his duties. However, after such notification, the Chief shall have the right to apply for retirement.

The Chief may challenge whether the Manager's actions under this Section were "reasonable" before an arbitration panel pursuant to Section 6C.

Section 12, Other Employment:

The Chief agrees that he will not engage in outside employment, business ventures, directorships or other public activities without the knowledge of and prior express approval of the Manager.

Section 13, Other Terms and Conditions of Employment:

The Manager, in consultation with the Chief, shall fix any other term and conditions of employment, as it may determine from time to time, relating to the performance of the Chief, provided such terms and conditions are not inconsistent with or conflict with the provisions of this Agreement, or law.

Section 14, No Reduction of Benefits:

The Town agrees that it shall not, at any time during the term of this contract, reduce the salary, compensation or other benefits of the Chief, except to the extent that such reduction is evenly applied across-the-board for all employees of the Town.

Section 15, Modification:

No change or modification of this contract shall be valid unless it shall be in writing and signed by both parties

Section 16, Law Governing:

This contract shall be construed and governed by the laws of the Commonwealth of Massachusetts.

Section 17, Severability of Provisions:

If any clause or provision of this contract shall be determined to be illegal or unenforceable by a court of competent Jurisdiction, the remainder of this contract shall not be affected thereby.

Section 18, Length of Contract:

- A) The contract shall be in effect for three (3) years, commencing July 1, 2018 through June 30, 2021.
- B) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Manager to terminate the services of the Chief at any time, subject to the provisions set forth in Section 9 of this Agreement.

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- C) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Chief to retire and/or resign at any time from his position with the Town. In the event the Chief voluntarily terminates his position with the Town before the expiration of the term of this Agreement, he shall give a minimum of sixty (60) days' notice in advance, unless the parties agree otherwise. A copy of the resignation shall be filed with the Town Clerk.

Section 19, Non-Renewal:

- A) The Town shall provide one hundred twenty (120) days written notice if this agreement will not be renewed upon its expiration. If such advance notice is not given, then the contract shall automatically renew for one (1) year.

IN WITNESS WHEREOF, the Town of Longmeadow, Massachusetts has caused this Agreement to be signed and executed by the Town Manager and the Fire Chief has signed and executed this Agreement, both in duplicate, this 12 day of October, 2018.

  
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Fire Chief

Town of Longmeadow

  
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Town Manager