

CONTRACT OF EMPLOYMENT

BETWEEN TOWN OF PEPPERELL AND FIRE CHIEF

THIS AGREEMENT made this 29 day of June, 2017, by and between the Town of Pepperell (“the Town”), acting by and through its Town Administrator and Edward L. Tyler, III (“Tyler” or “the Fire Chief”) pursuant to M.G.L. c. Chapter 41, Section 108O, witnesseth that:

WHEREAS, the Town desires to employ the services of Tyler as Fire Chief of the Town of Pepperell under M.G.L. c. 48, §42; and

WHEREAS, Tyler agrees to accept employment as Fire Chief of said Town under M.G.L. c. 48, §42, according to the terms and conditions of this Agreement;

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

1. **Employment:**

The Town hereby agrees to employ Edward L. Tyler, III as the Fire Chief of the Town of Pepperell, and Tyler accepts said offer.

During the term of this agreement, the Fire Chief shall maintain and undertake all necessary and appropriate training and educational programs to assist in the discharge of his duties and responsibilities as required by the Town Administrator and/or Board of Selectmen.

The Fire Chief shall work under the general direction of the Town Administrator and the policy direction of the Board of Selectmen (“the Board”).

2. **Term:**

- A. This Agreement shall become effective as of March 20, 2017 and shall be in full force and effect until March 20, 2019. The Agreement shall be for a term of two (2) years, subject to Section 13.
- B. Nothing in this Contract shall prevent, limit, or otherwise interfere with the right of the Town to terminate the services and employment of the Fire Chief at any time, subject only to the provisions set forth in Section 13 of this Agreement and the General Laws.
- C. Nothing in this Contract shall prevent, limit, or otherwise interfere with the right of the Fire Chief to resign at any time from the subject position(s) with the Town, subject only to the provisions set forth in Section 13 of this Contract.

3. **Compensation:**

- A. In consideration of employment and services rendered under this Agreement, the Town agrees to pay the Fire Chief an annualized salary of \$90,000 in the first year of the contract and \$100,000 in the second year of the contract, less lawful withholdings and deductions. Such salary is subject to appropriation by Town Meeting.

- B. The Fire Chief's salary shall be paid at such intervals as is customary with the Town's employees, subject to applicable withholdings and deductions, and otherwise in conformity with the normal payroll practices of the Town.
- C. For the purposes of the Fair Labor Standards Act, the Fire Chief shall be an exempt employee.

4. Duties:

- A. The Fire Chief is the Chief Fire Officer and Commanding Officer of the Fire Department and is responsible for coordinating the activities of the Fire Department and Ambulance Service in accordance with Chapter 48, Section 42 of the General Laws, and for performing such other duties as the Town Administrator or the Board shall from time to time assign to the Fire Chief; and for reporting to the Town Administrator and Board of Selectmen on a regularly scheduled basis on the activities of the Fire Department and Ambulance Service.
- B. The Town Administrator or Board may change the duties of the Fire Chief's position at any time, as circumstances demand, and as the position evolves. The Fire Chief will have input into these changes, however the Town Administrator or Board shall maintain management oversight of this process and shall have final authority on any changes in duties.
- C. The Fire Chief shall perform his duties in a professional and competent manner.

5. Hours of Work:

The Fire Chief will devote full time and attention to the business of the Town and will not engage in any other business during office hours, except with the approval of the Town Administrator or the Board.

The hours of employment for the Fire Chief will generally be the normal business hours of the Town. While expecting that the Fire Chief will devote his full time and attention to Town business during regular working hours, the Town specifically acknowledges that evening and/or weekend hours may be necessary from time to time in order to properly discharge his duties, and that attendance at evening or after-hour meetings and weekend assignments will be required as needed and as usual and customary, and such attendance is expected of the Fire Chief.

Accordingly, the Town explicitly grants reasonable flexibility within the normal workweek hours, allowing for time expended on Town business outside of the normal workweek hours. The Fire Chief shall not be required to submit a weekly time card, although he shall be responsible for timely reporting of vacation time, sick leave, or personal days taken.

6. Leave Time:

- A. The Fire Chief shall be entitled to twenty-five (25) days of vacation in each Fiscal Year of this Agreement, which will be prorated for any partial fiscal year worked. Any unused accumulated vacation leave remaining on the books at the time of termination of employment will be paid directly to the Fire Chief. The Fire Chief shall coordinate use of vacation leave with the Board and/or Town Administrator.

- B. The Fire Chief shall be entitled to twelve (12) days of sick leave in each Fiscal Year of this Agreement, which will be accrued at the rate of 1 day per month and prorated for any partial fiscal year worked. Unused sick leave may be accumulated to a total of ninety (90) days.
- C. Any unused sick leave, subject to the maximum amount set above, remaining at the expiration of this Agreement shall carry over and be credited to the Fire Chief if this Agreement is extended. No remuneration or any other payment will be made for accrued, unused sick leave.
- D. The Fire Chief shall be entitled to three (3) days personal leave in each Fiscal Year of this Agreement. Personal leave may not be accumulated, nor carried over into ensuing years.
- E. Funeral Leave: in the event of the death of the Fire Chief's spouse, child, stepchild, parent, brother, sister, mother-in-law, father-in-law, stepparent, grandparent, or grandchild, an excused absence with pay of not more than four (4) consecutive scheduled work days will be allowed.
- F. All other types of leave (military, jury duty, etc.) shall be granted under the terms and conditions established by the Pepperell Personnel By-law.

7. Holidays:

The Fire Chief shall be entitled to all holidays granted to Town employees pursuant to Article V of the Pepperell Personnel By-law. If the Fire Chief is on duty at any time on a holiday set forth in M.G.L. c.48, s57E, the Fire Chief will be granted an additional day's pay.

8. Insurance Benefits:

The Fire Chief shall be entitled to all health and life insurance benefits, as may be amended from time to time, to which all other non-bargaining unit Town Employees are entitled as set forth by all applicable Town Bylaws, Contract and/or Town Administrative authority. The premium cost paid by the Fire Chief shall be in accordance with Town policy. Any change in the amount of the premium cost paid by the Town during the term of this Agreement shall be applicable to the Fire Chief.

The Fire Chief shall be entitled to purchase, at his own expense, the additional life insurance coverage and the dental coverage made available by the Town to other Town employees at their own expense.

9. Professional Development:

- A. The Fire Chief shall be given opportunities to develop his skills and abilities in fire services and as a Department Manager. Accordingly, the Fire Chief shall be allowed to attend, without loss of vacation or other leave, courses, seminars, and meetings that are necessary for his professional growth and for the good of the Town and the Pepperell Fire Department, which are approved in advance by the Board and the Town Administrator. The Chief shall pay for the cost of such programs. The Fire Chief shall be responsible for educational coursework that is directly related to his job and required by the Town Administrator at his discretion. If the Town requires that the Fire Chief acquire any new or additional license or certification, the Town will pay the cost of any associated classes, training, books, and test or license fees as well as reasonable associated travel and

subsistence expenses, if any, subject to appropriation. Attendance is a mandatory requirement of his employment.

- B. The Town shall pay reasonable professional dues and subscriptions for the Fire Chief for his continuation and full participation in national, regional and state associations and organizations necessary and desirable for his continued growth and advancement, and for the good of the Town. All such amounts shall be subject to appropriation. This Section is exclusive of educational requirements in Section 9A above.

10. Vehicle and Travel Expenses:

The Town shall provide a fire vehicle for use by the Chief and shall pay 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. Since the Chief is required to be "on call" twenty-four (24) hours a day and may be required to report to an incident or event, the vehicle may be used for personal reasons. It may not be used by the Chief for family vacations or recreational trips when the Chief would not be reasonably expected to respond to an incident or event.

11. Indemnification:

The Town will provide professional liability insurance for the Fire Chief in the amount of not less than One Million Dollars (\$1,000,000) per occurrence.

The Town will provide legal counsel in defense of any action to which the Fire Chief is a party by the alleged performance or non-performance of his duties and in which the Fire Chief acted in good faith (except as may relate to his suspension or termination of employment with the Town).

The Town will indemnify the Fire Chief in all claims made against him in the performance of his duties, even if said claim has been made following his termination of Town employment, including claims for any acts or omissions of the Fire Chief which do not subject the Town itself to liability, provided that the Fire Chief acted within the scope of his duties and in good faith. It is agreed that the Fire Chief will notify the Town promptly of any such claim and will cooperate and assist the Town in defending any claim made against him and/or the Town concerning the performance or non-performance of his duties.

The Town shall pay the amount of any settlement or judgment rendered thereon. The Town may compromise and settle any such claim or suit and will pay the amount of any settlement or judgment rendered thereon without recourse to the Fire Chief.

12. Performance Evaluation

- A. The Town Administrator shall annually review and evaluate the performance of the Fire Chief, in advance of the adoption of the annual operating budget. The Town Administrator may seek the input of the Board on the performance of the Fire Chief. Said review and evaluation shall be in accordance with specific criteria developed jointly by the Town Administrator and the Fire Chief; criteria may be added or deleted, as the Town Administrator may from time to time determine, in consultation with the Fire Chief. Further, the Fire Chief shall be provided with a summary written statement of the Town Administrator's findings, and shall be provided an adequate opportunity to discuss his evaluation with the Town Administrator.

- B. Subsequent to the annual reviews, and dependent upon results of the evaluation and the financial resources of the Town, the Town Administrator may recommend through the budget process and the Board of Selectmen may choose to award the Fire Chief a salary increase, to take effect the following fiscal year, subject to the approval of the budget by Town Meeting.
- C. The Fire Chief shall make a diligent attempt to achieve each of the following goals, in part or in whole, as specified by the Town Administrator.
 - i. The Fire Chief Shall devise and develop a comprehensive plan for the reorganization of the Fire Department under the Strong Chief Provision, MGL Chapter 48, Section 42.
 - ii. The Fire Chief shall manage the departmental personnel, non-unit and unit personnel in accordance with solid public personnel management principles and practices and programs authorized by the Board of Selectmen and Town Administrator.
 - iii. The Fire Chief shall demonstrate a mastery of collective bargaining procedures, programs and practices, in accordance with MGL Chapter 150E.
 - iv. The Fire Chief shall demonstrate a command of budgetary finance and public administration of the Fire Department budgets and maintain a balanced budget.
 - v. The Fire Chief shall initiate and coordinate applicable fire service grants that will significantly improve the finances of the Fire Department.
 - vi. The Fire Chief shall lead the effort to convert to a Regional Emergency Communications Center approved by the Board of Selectmen and Town Administrator.

This Section 12(C) is a material provision of the Agreement.

13. Termination:

- A. This Agreement may be terminated as provided below:
 - i. By mutual agreement, signed by the Board of Selectmen and the Fire Chief, upon such terms and conditions as may be acceptable to both parties at the time of the termination; or
 - ii. By the Board of Selectmen for cause in accordance with Chapter 48, Section 42 of the General Laws; or
 - iii. By the Fire Chief upon forty-five (45) days written notice to the Town Administrator and the Board. Until the effective date of termination under such circumstances, the Fire Chief shall continue to perform his duties and shall, if requested, cooperate with the Town in search for, and/or the orientation of a successor.

14. Renewal:

In the event the Town intends to renew the Fire Chief’s employment with the Town following the expiration of this Agreement, the Town shall provide the Fire Chief with written notice of such intent no later than December 20, 2018.

If the Town fails to give such written notice by December 20, 2018, this Agreement and the Fire Chief’s employment with the Town shall end. A non-renewal of this Agreement shall not constitute a termination of the Fire Chief, but rather a conclusion of the contract term.

15. Administrative Leave:

The Town may place the Fire Chief on paid administrative leave, without hearing, at any time during the term of this Agreement.

16. General Provisions:

- A. This writing constitutes the complete agreement of the parties as of the date of execution, and any supplemental or additional agreement or amendment shall be effective only if in writing and signed by the Town and by the Fire Chief.
- B. If any provision, or any part thereof contained within this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement or any of the several portions thereof, shall be deemed not affected, and shall remain in full force and effect.
- C. This Agreement shall prevail over any conflicting personnel provisions of the Town By-Laws or Rules and Regulations.

IN WITNESS WHEREOF, the Town of Pepperell, Massachusetts, has caused this Agreement to be signed and executed in its behalf by its Board of Selectmen and Town Administrator, and the Fire Chief has signed and executed this Agreement, both in duplicate.

Town of Pepperell Board of Selectmen

Fire Chief

Melissa M. Tzanoudakis, Chairman

Edward L. Tyler, III

Roland P. Nutter, Clerk

Date

Lisa M. Ferolito

Mark J. Andrews, Town Administrator

Date