

TOWN OF HOPKINTON
GENERAL BYLAW

Chapter 33
Personnel
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Appendix A

[HISTORY: Adopted by the Special Town Meeting of the Town of Hopkinton 6-14-1962, Art. 2;
amended in its entirety 4-8-1985 ATM, Art. 2. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees -- See Ch. 28.

§ 33-1. Applicability. [Amended 10-3-2001 STM, Art. 5; 5-6-2002 ATM; Art. 3; 5-5-2003, ATM, Art. 3, 5-5-2008 ATM, Art. 3]

This chapter shall apply to all Town of Hopkinton ("the Town") departments, other than the School Department, and to all positions of all employees in the service of the Town, whether full- or part-time, temporary, seasonal, special, intermittent or any other type of employment, other than those positions which are filled by popular election and other than those positions which are covered by separate agreements between any association of employees and the Town or any individual employee and the Town and developed through collective bargaining, except that all provisions of this chapter shall be applicable in so far as any collective bargaining agreement may refer to this chapter and to the extent applicable by statute or in the absence of any other provisions.

The Town adheres to the policy of employment-at-will, which permits the Town or the employee to terminate the employment relationship at any time, with or without cause, for any lawful reason. Unless otherwise informed by a written contract, all Town employees are all employees-at-will.

The rights afforded herein shall be construed to be in addition to those rights secured by state and federal laws and regulations.

The Town agrees that, in all personnel matters, it will continue its policy of not discriminating against any person on any legally recognized basis. This includes race, color, religious creed, national origin, ancestry, gender, sexual orientation, veteran status, age and disability.

In an effort to be responsive to the needs of a growing Town, changes or additions to the Personnel Bylaws will be made at Town Meetings when necessary.

§ 33-2. Mandatory classification.

No person shall be appointed, employed or paid as a Town employee in any position under the Classification and Pay Schedule (§ 33-36) under any title other than that of the class to which the position is allocated.

§ 33-3. Employee categories. [Amended 5-6-2002 ATM, Art. 3; 5-5-2003 ATM, Art. 3; 5-3-2004, Art.3, 5-5-2008 ATM, Art. 3]

- A. All positions subject to the provisions of this chapter shall fall into one of the following categories:
 - (1) Regular full-time: an employee regularly scheduled to work a full workweek schedule of 40 hours and 52 weeks per year.
 - (2) Regular part-time.
 - (a) Regular part-time A: An employee regularly scheduled to work a full workweek of 20 hours or more per week and 52 weeks a year.
 - (b) Regular part-time B: An employee regularly scheduled to work 19 hours or less per week, 52 weeks per year.

- (3) Intermittent part-time: An employee hired for irregular or occasional employment for an hourly rate or a fee. This includes employees hired to work for a specific period of time not to exceed six months. **[Amended 5-5-2008 ATM, Art. 3]**
- (4) Salaried but not working a regular schedule.
- B. These categories will determine an employee's eligibility for benefits as specified by this chapter.
- C. Employees may be changed from one category to another category only after a Payroll Change Authorization Form has been approved by the department head, the Personnel Board, Human Resources Director and Town Manager.

§ 33-4. Allocation and new positions. [Added 10-3-2001 STM, Art. 5; amended 5-6-2002 ATM, Art. 3; 5-5-2003 ATM, Art. 3; Art. 5; 5-3-2004, Art. 3, 5-7-2007 ATM, Art. 56]

- A. The Town Manager, upon the recommendation in writing of the department head, shall allocate each position subject to the provisions of the Classification and Pay Schedule (§ 33-36) to its appropriate class and pay grade. Whenever a new position is established, or the duties of an existing position are so changed that, in effect, a new position of a different class is substituted for the old position, the Town Manager, with approval of the department head, shall allocate such position to an appropriate class and pay grade; and whenever such action appears warranted by reason of error in the allocation then in effect, or as a result of additional duties and changes in the job content of the class.
- B. New classifications and any changes to the current Classification and Pay Schedule will not be considered until Town meeting approves and if necessary provides adequate funding.
- C. The Town Manager shall afford reasonable opportunity to any employee or any department head affected by such a new position or change in classification, to be heard.
- D. The Human Resources Director, under the direction of the Town Manager, shall be responsible for maintaining employee personnel records in a detailed, accurate and safe manner in accordance with state and federal laws and regulations. The personnel records of the Town shall be kept in the Human Resources Department.
- E. The Human Resources Director shall be responsible for the development and recommendation of personnel policies, regulations, and administrative procedures to the Town Manager.

§ 33-5. Reclassification and hiring. [Amended 10-10-1990 STM, Art. 2; 5-6-2002 ATM, Art. 3; 5-5-2003 ATM, Art. 3; 5-3-2004 ATM, Art. 3, 5-7-2007 ATM, Art. 56, 5-5-2008 ATM, Art. 3]

- A. No employee may be reclassified to a position in another group, either higher or lower, until the Human Resources Director and the Personnel Board have determined that such a reclassification will be consistent with the provisions of the Classification Pay Schedule. The Town Manager shall have final approval of all reclassifications.
- B. In hiring employees the following procedure shall be used in filling all regular full-time and regular part-time A positions covered by this chapter.

- (1) A job description agreed to by both the hiring department head or Board Chairman and the Human Resources Director must be completed prior to the announcement of the job opening.
- (2) The hiring rate and pay rate for the job must be in accordance with the Classification and Pay Schedule or be developed with the Human Resources Director and agreed to by the Personnel Board and the Town Manager prior to the announcement of the job opening.
- (3) Announcement of job opening.
 - (a) The job opening must be announced by publishing a notice of same on the notice board in the Town Hall and also by posting the job opening on the Town of Hopkinton website, no less than seven days prior to the date the position is filled.
 - (b) The announcement will include:
 - [1] Job title.
 - [2] Pay range.
 - [3] Summary statement of duties.
 - [4] Direction on where and how applications may be filed.
 - [5] Date of closing of application period. **[Added 5-5-08 ATM, Art 3]**
- C. Records of all job applicants must be retained by the Human Resources Department or board chairman for a period of two years after the job was filled. **[Amended 5-5-08 ATM, Art. 3]**
- D. A payroll change authorization with the required approvals must be submitted to the Human Resources Department for all new employees or for a pay rate change for an incumbent employee.
- E. Funding for a new position must be approved by Town Meeting prior to advertising said position. All open positions must be reviewed by the Human Resources Director and the Personnel Board before being filled. **[Added 5-5-08 ATM, Art. 3]**
- F. The Human Resources Director shall be responsible for maintaining and updating the Town's position classification system and submitting recommendations regarding possible classification changes to the Town Manager.

§ 33-6. Job descriptions and interpretations. [Added 5-6-2002 ATM, Art. 3; amended 5-5-2003 ATM, Art. 3, 5-7-2007 ATM, Art. 56, 5-5-2008 ATM, Art. 3]

- A. The Human Resources Director shall maintain written job descriptions of the jobs or positions in the Classification and Pay Schedule, which descriptions shall be written definitions including statements describing the kind of work, the distinguishing features of the work and such illustrative examples of duties as may be deemed appropriate. The Personnel Board may amend such job descriptions from time to time at its discretion and based on recommendation from the Town Manager and the Human Resources Director. **[Amended 5-5-08 ATM, Art. 3]**

- B. The description of any position shall be construed solely as a means of identification and not as limited to what the duties and responsibilities of any position shall be, or as modifying or in any way affecting the power of any administrative authority, as otherwise existing, to assign duties to or to direct and control the work of any employee under the jurisdiction of such authority.

§ 33-7. Pay and salary schedule. [Added 5-3-2004, Art. 3; amended 5-2-2005 ATM, Art. 3]

The Pay and Salary Schedule of the plan, set forth in § 33-36 of this chapter, shall consist of the minimum and maximum salaries, step-rate salaries or single-rate pay and salary for the positions in the Classification Schedule.

§ 33-8. Personal rate above maximum.

Any salary rate which is above the maximum rate for a job as established by this plan shall be deemed to be a personal rate and apply only to the incumbent. When such incumbent leaves the employ of the Town or is transferred to another job or a new maximum higher than the personal rate is established, the personal rate shall disappear. No other employee assigned to or hired for such a job shall advance beyond the maximum of the job.

§ 33-9. Step-rate increases. [Amended 10-3-2001 STM, Art. 5; 5-6-2002 ATM, Art. 3; 5-5-2003 ATM, Art. 3; ATM 5-3-2004, Art. 3, 5-7-2007 ATM, Art. 56, 5-5-2008 ATM, Art. 3]

- A. Regular full-time and regular part-time A and B employees may be eligible for consideration to advance to the next higher step rate upon completion of 12 months of continuous employment with active pay status at the previous step rate. In order to be eligible for consideration to advance to the next step, employees must have a current performance evaluation with an overall rating of Above Satisfactory. Human Resources will confirm that the performance evaluation is current and filed in the employee's personnel file. Any employee denied an increase under the normal time schedule has the right to appeal to the Town Manager which will confer with the employee and the department head or the board, committee or commission responsible for the employee's department. All recommendations to adjust or not to adjust shall be approved in advance by the Town Manager.

- (1) In case of disagreement between Town Manager and the employee, the matter must be referred to Personnel Board for review and the Personnel Board decision is final.
[Amended 5-5-2008 ATM, Art. 3]

- B. All step-rate increases are effective at the beginning of the pay period closest to the employee's anniversary date.
- C. Before a step-rate increase change is initiated by a department, there must be adequate funds available in the department's current budget to cover the requested increase.
- D. If an employee is removed from payroll, they are not considered to be in active pay status. Time spent off payroll in excess of one day will be recorded and the date of the employee's step-rate increase will be adjusted.

- E. All other categories of employment and those positions listed in Group C of the Classification and Pay Schedule are not eligible for step-rate increases.
- F. In order for an employee to be eligible to receive a Cost of Living Increase, they must have a current performance evaluation in their employee file. **[Added 5-5-2008 ATM, Art. 3]**

§ 33-10. Transfers and promotions of employees. [Amended 5-5-2003 ATM, Art. 3, 5-7-2007 ATM, Art. 56]

- A. When an employee is promoted to a higher-rated job, he/she shall enter it at the minimum of the job rate range or at his/her own rate, whichever is higher, provided that the Town Meeting has funded the higher rate. He/she may also receive a one-step rate increase at the time if the department head recommends that qualifications and performance warrant it, and the Town Manager approves. If the department head should feel that there should be an introductory period before recommending the promotional one-step rate increase, on recommendation of the department head the Town Manager may approve such a deferred promotional increase at the conclusion of the introductory period. The introductory period must be specified, justified and explained to the employee.
 - (1) In case of disagreement, the matter will be referred to Personnel Board for review and final decision.
- B. If an employee is transferred to a lower-rated job, he/she shall enter it at his/her own rate or at the maximum rate for the job, whichever is the lower, provided that the Town Manager approves. The employee shall have the right of appeal to the Personnel Board and to be heard thereon.

§ 33-11. Pay rate for new personnel. [Amended 10-3-2001 STM, Art. 5; 5-6-2002 ATM, Art. 3; 5-5-2003 ATM, Art. 3; 5-3-2004 ATM, Art. 3; 5-2-2005 ATM, Art. 3, 5-7-2007 ATM, Art. 56]

- A. It is the intent of the Town to hire all employees at Step 1 in the assigned classification level. If because of recruitment difficulties or an applicant's exceptional qualifications, a department head or appointing authority may submit a request to the Human Resources Director to hire an applicant at step 2 in the assigned classification level. All requests to hire at step 3 and above must be submitted by the department head or appointing authority to the Town Manager for consideration. Town Manager is required to submit all requests to hire at step 3 and above to the Personnel Board for review and approval.
- B. For new regular full-time and new regular part-time A and B personnel, the first six months of employment shall be an introductory period. This introductory period may be extended based on the recommendation of the department head and the Human Resources Director.

§ 33-12. Departmental pay adjustment section in annual budget. [Amended 5-7-2007 ATM, Art. 56]

Each department head shall include in the annual budget a pay adjustment section to provide funds for anticipated pay adjustments during the ensuing year, expenditures to be made therefrom only in accordance with the plan with the approval of the Town Manager. No adjustment shall be effective or paid unless sufficient funds are available in the department's budget and it is approved by the Personnel Board..

§ 33-13. Worker's Compensation. [Amended 5-5-2003 ATM, Art. 3, 5-7-2007 ATM, Art. 56, 5-4-2009 ATM, Art 3]

An employee who, by reason of an on-the-job injury or illness, receives statutory compensation may receive, in addition, the amount necessary to make up his/her regular weekly compensation, from saved or available time up to a period not exceeding six months for any one accident. In the interests of uniform procedures throughout the Town, the approval of the Town Manager shall be required for any such payments of additional compensation. In case of a more extended disability, the case may be reviewed by the administrative authority and the Town Manager, and if it is felt that the circumstances of the individual case warrant such supplementary payments, the Town Manager may so authorize. Eligible employees who are out for more than three consecutive days for Worker's Compensation shall be placed on Family Medical Leave (FMLA) which will run concurrently with their Worker's Compensation leave. If an employee exhausts their Family Medical Leave while on Worker's Compensation, they must apply for a Personal Leave of Absence. (See Personal Leave Policy 33-17)

If the employee is terminated after exhausting their leave time, but after less than six months have gone by, they may not receive sick pay for the balance of the time.

§ 33-14. Holidays with pay. [Amended 5-2-1994 ATM, Art. 3; 5-7-2001 ATM, Art. 3; 5-5-2003 ATM, Art. 3; 5-3-2004 ATM, Art. 3; 5-2-2005 ATM, Art. 3, 5-7-2007 ATM, Art. 56, 5-5-2008 ATM, Art. 3, 5-4-2009 ATM, Art. 3]

A. All eligible regular full-time and regular part-time A employees shall receive one day at regular straight time pay for the following 13 holidays:

- New Years Day
- Martin Luther King Day
- President's Day
- Patriot's Day
- Memorial Day
- Fourth of July
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving
- Day after Thanksgiving
- Christmas Day
- One Floating Holiday

B. If such a holiday falls on a Saturday, the preceding Friday will be observed as a holiday. If the holiday falls on a Sunday, the holiday will be observed on the following Monday.

C. To be eligible for holiday pay, each regular full-time employee must be in a paid status on the day of the holiday. The term "paid status," for purpose hereof, shall mean either normally scheduled to work on that day within the workweek, or on paid vacation leave or sick leave. Each regular part-time A employee shall be entitled to holiday pay only for those holidays that fall on a day on which the employee is regularly scheduled to work and is in a paid status. Holiday pay for a part-time employee shall be that employee's regular pay for the day on which the holiday occurs. Also, unless the employee is out on an excused absence, or provides

a doctor's note, the employee must work the scheduled day before and after the holiday in order to receive holiday pay. **[Amended 5-5-2008 ATM, Art. 3]**

- D. Each eligible regular full-time and regular part-time A employee who is required to perform work on a holiday that falls within their normal workweek shall receive, in addition to the holiday pay to which he/she is entitled, at the discretion of the department head either compensation for such work at straight time or time off in lieu of such compensation to equal the number of hours worked on the holiday. Department heads shall be considered the same as all other personnel when working on a holiday, except that approval for the compensatory day off or pay in lieu of a day off shall be obtained from the Board of Selectmen as appropriate. The Fire Chief shall be paid in accordance with MGL c. 48, § 57E, and the Police Chief shall be paid in accordance with MGL c. 147, § 17F, for the days listed in said sections on which said Chiefs are on duty at any time during those days.
- E. The floating holiday can be used for a religious/secular holiday or as needed by the employee. Requests for a floating holiday must be submitted to the employee's department head or the board, committee or commission responsible for the employee's department at least one week prior to the requested holiday. During the first year of employment, new hires are eligible for the floating holiday if their start date is prior to April 1st. If the floating holiday is not taken by June 30th it will be forfeited by the employee.
- F. Regular Part-Time B Dispatchers required to perform work on New Year's Day, The Fourth of July, Thanksgiving, or Christmas Day shall receive one and one half times their normal rate of pay for the hours worked. **[Added 5-4-09 ATM, Art. 3]**

§ 33-15. Personal days with pay. [Amended 5-2-1994 ATM, Art. 3; 5-6-2002 ATM, Art. 3; 5-5-2003 ATM, Art. 3]

On each July 1st, full-time employees will be credited annually with three paid personal leave days which may be taken during the following 12 months at a time or times requested by the employee and approved by his/her immediate supervisor. Personal leave days for part-time employees (20 hours or more) shall be credited and granted in the same proportion that employee's service bears to full-time service.

Those employees with initial employment date between July 1st and September 30th shall be allotted three personal days; those with initial employment dates between October 1st and December 31st shall be allotted two personal days; and those with initial employment dates between January 1st and May 31st shall be allotted one personal day for the remainder of the fiscal year.

Any paid personal leave not taken by June 30th will be forfeited by the employees.

§ 33-16. Vacation leave with pay. [Amended 5-7-2001, ATM, Art. 3; 5-6-2002 ATM, Art. 3; 5-5-2003 ATM, Art. 3; 5-3-2004 ATM, Art. 3; 5-2-2005 ATM, Art. 3, 5-1-2006 ATM, Art. 3, 5-7-2007 ATM, Art. 56, 5-5-2008 ATM, Art. 3, 5-4-2009 ATM, Art. 3]

- A. The vacation year is from July 1 through June 30 inclusive. This is merely the time in which accrued vacation must be used; Additional vacation time accrues on the anniversary date, not the fiscal year. **[Amended 5-5-2008 ATM, Art. 3]**

- B. All regular full-time and regular part-time A employees shall be credited on the last day of each calendar month with vacation leave accrued. Vacation time is accrued based on a full calendar month worked. Time off payroll is not considered time worked and therefore no vacation time will be credited to an employee who is off payroll for more than one workday during the calendar month. For each full calendar month of employment, employees will be credited with vacation pay as outline below:
- (1) Level 1. After one full month and up to five years of completed service, the employee is eligible to accrue a maximum of two weeks (80 hours) of vacation leave with pay each year. Accrual is calculated as 6.666 hours of paid vacation leave per full month of employment. **[Amended 5-3-2005 ATM, Art 3¹, 5-5-2008 ATM, Art. 3]**
 - (2) Reserved
 - (3) Level 2. After five years and up to 10 years of completed service, the employee is eligible for three weeks (120 hours) of vacation leave with pay each year. Accrual is calculated as 10.0 hours of paid vacation leave per full month of employment. . **[Amended 5-5-2008 ATM, Art. 3]**
 - (4) Level 3. After 10 years and up to 20 years of completed service, the employee is eligible for four weeks (160 hours) of vacation leave with pay each year. Accrual is calculated as 13.333 hours of paid vacation leave per full month of employment. . **[Amended 5-5-2008 ATM, Art. 3]**
 - (5) Level 4. After 20 years of completed service, the employee is eligible for five weeks (200 hours) of vacation leave with pay each year. Accrual is calculated as 16.666 hours of paid vacation leave per full month of employment. . **[Amended 5-5-2008 ATM, Art. 3]**
- C. At the discretion of the Town Manager and approval by Personnel Board accrual rates for employees hired at Group A/Grade 4 and above may be increased by one accrual level. **[Amended 5-5-2008 ATM, Art. 3]**
- D. Vacation pay for regular part-time A employees, who are paid hourly, shall be the average of his/her weekly pay for the 26 weeks worked immediately preceding the vacation.
- E. Should a paid holiday occur during the employee's regularly scheduled workweek while the employee is on authorized paid vacation, the paid holiday will not count as a vacation day.
- F. Eligible employees may carry over up to but not more than 2 weeks of vacation time from one fiscal year to another. Vacation time that is not carried over does not accumulate from fiscal year to fiscal year. All time over 2 weeks accrued and unused is forfeited by the employee at the end of the Fiscal year. **[Amended 5-5-2008 ATM, Art. 3]**
- G. An employee who is eligible for vacation under this policy whose employment ends for any reason shall be paid, at their last rate of pay, an amount equal to the vacation that had been accrued prior to such termination but which had not been used.
- H. With approval from the employee's department head or the board, committee or commission responsible for the employee's department, and from the Town Manager or his/her designee,

employees who accrue at Level 3 or 4, may elect to work no more than one vacation week and receive vacation pay plus their regular pay for that week. In order to be considered, the request must be submitted to the Human Resources Director, no later than the 3rd Friday in May. The request will then be brought to Personnel Committee for evaluation and a decision at the May Personnel meeting. All decisions approved by the Personnel Committee must be sent to the Finance Director for confirmation of funds. After available funds have been confirmed, the payment will be made in the last check of the fiscal year. **[Amended 5-5-2008 ATM, Art. 3, 5-4-2009, ATM, Art. 3]**

- I. Any employee that wishes to use any paid time off other than sick time, must have their request approved by their manager in writing before the time off is taken. Time off requests in excess of three days, must be approved in writing at least two weeks before the time is taken. **[Added 5-5-2008 ATM, Art. 3]**

- J. Employees may request approval to use vacation time not yet earned through their department head and the Human Resources Department. However, in order to be granted permission to use the unearned time, the employee must have used all of **their** personal and floating holidays. **[Amended 5-5-2008 ATM, Art. 3]**

§ 33-17. Personal leave of absence. [Amended 5-7-2001 ATM, Art. 3; 5-5-2003 ATM, Art. 3; 5-3-2004 ATM, Art. 3, 5-7-2007 ATM, Art. 56, 5-5-2008 ATM, Art. 3, 5-4-2009 ATM, Art. 3]

Personal leave of absence for a specified period of time may be granted by a department head and the Town Manager but shall be without compensation. A leave of absence of over three months duration shall be considered a break in employment and on return to work the employee shall have the status of a new employee unless an extension of leave beyond three months has been authorized by the Town Manager in advance. Unless otherwise stated, personal leave of absences without pay shall be considered inactive employment, where time spent on such leave does not count as service (time worked) for purposes of seniority, vacation, sick leave, pension, longevity and other benefits. Those employees on an approved leave of absence who are removed from payroll are responsible for remitting health and other insurance premiums to the Benefits Coordinator within the requested time frame.

Once an employee has exhausted their Family Medical Leave or Massachusetts Maternity Leave they must apply for a Personal Leave of Absence by submitting their request in writing to the Human Resources Director before their protected leave runs out. This Leave must be approved by the Town Manager before it can be granted to the employee. **[Added 5-4-2009 ATM, Art. 3]**

Employees who are on a non FMLA leave will be making COBRA payments. Employees who fail to make payments in the time required shall be removed from the insurance plan. **[Added 5-5-2008 ATM, Art. 3]**

§ 33-18. Family and Medical Leave Act. [Added 5-7-2001 ATM, Art. 3;² amended 5-5-2003 ATM, Art. 3; 5-3-2004 ATM, Art. 3, 5-5-2008 ATM, Art. 3, 5-4-2009 ATM, Art.3]

A. General Provisions

Under this policy, The Town of Hopkinton will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid or a combination of paid and

unpaid leave, depending on the circumstances of the leave and as specified in this policy and policies regarding vacation time, sick time and personal time usage.

B. Eligibility

To qualify to take family or medical leave under this policy, the employee must meet all of the following conditions:

- 1) The employee must have worked for the Town for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations or when there is a written agreement, including a collective bargaining agreement, stating the employer's intention to rehire the employee after the service break. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.
- 2) The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave should not be counted in determining the 1,250 hours eligibility test for an employee under FMLA.
- 3) The employee must work in a worksite where 50 or more employees are employed by the Town within 75 miles of that office or worksite. The distance is to be calculated by using available transportation by the most direct route.

C. Type of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

- 1) *The birth of a child and in order to care for that child.*
- 2) *The placement of a child for adoption or foster care and to care for the newly placed child.*
- 3) *To care for a spouse, child or parent with a serious health condition (described below).*
- 4) *The serious health condition (described below) of the employee.*

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position. A serious health condition is defined as a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a licensed health care provider. This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

The Town of Hopkinton may place employees on FMLA who have been out for more than three days to care for their own serious health condition or any of the reasons for FMLA leave listed above. Employees with questions about what this FMLA policy or under the Town's sick leave policy should

consult with the HR Director. If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the Town may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

5) Qualifying exigency leave for families of members of the National Guard and Reserves when the covered military member is on active duty or called to active duty in support of a contingency operation.

An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following: 1) short-notice deployment, 2) military events and activities, 3) child care and school activities, 4) financial and legal arrangements, 5) counseling, 6) rest and recuperation, 7) post-deployment activities and 8) additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor.) This type of leave would be counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.

6) Military caregiver leave (also known as covered service member leave) to care for an ill or injured service member.

This leave may extend to up to 26 weeks in a single 12-month period for an employee to care for a spouse, son, daughter, parent or next of kin covered service member with a serious illness or injury incurred in the line of duty on active duty. Next of kin is defined as the closest blood relative of the injured or recovering service member.

D. Amount of Leave

An eligible employee can take up to 12 weeks for the FMLA circumstances (1) through (5) above under this policy during any 12-month period. The Town will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the Town will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

An eligible employee can take up to 26 weeks for the FMLA circumstance (6) above (military caregiver leave) during a single 12-month period. For this military caregiver leave, the Town will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

If a husband and wife both work for the Town and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for the Town and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave.

E. Employee Status and Benefits During Leave

While an employee is on leave, the Town will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the Town will require the employee to reimburse the Town the amount it paid for the employee's health insurance premium during the leave period.

Under current Town policy, the employee pays a portion of the health care premium. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Human Resources department by a date agreed upon by the employee and the Human Resources department. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The employer will provide 15 days' notification prior to the employee's loss of coverage.

If the employee contributes to a life insurance or disability plan, the employer will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums, or the employer may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments, the employer may discontinue coverage during the leave. If the employer maintains coverage, the employer may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

F. Employee Status After Leave

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider. This requirement will be included in the employer's response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions. The Town may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

G. Use of Paid and Unpaid Leave

An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid vacation, and personal leave prior to being eligible for unpaid leave. Sick leave must be run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established sick leave policy.

Disability leave for the birth of the child and for an employee's serious health condition, including workers' compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA. For example, if an employer provides six weeks of pregnancy disability leave, the six weeks will be designated as FMLA leave and counted toward the employee's 12-week entitlement. The employee may then be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12-week entitlement. An employee who is taking leave for the adoption or foster care of a child must use all paid vacation, personal or family leave prior to being eligible for unpaid leave.

An employee who is using military FMLA leave for a qualifying exigency must use all paid vacation and personal leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid vacation, personal leave or sick leave (as long as the reason for the absence is covered by the Town's sick leave policy) prior to being eligible for unpaid leave.

H. Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period).

The Town may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances of when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

For the birth, adoption or foster care of a child, the Town and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the Town before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.

I. Certification for the Employee's Serious Health Condition

The Town will require certification for the employee's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

The Town may directly contact the employee's health care provider for verification or clarification purposes using a health care professional or the HR director. The Town will not use the employee's direct supervisor for this contact. Before the Town makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, the Town will obtain the employee's permission for clarification of individually identifiable health information.

The Town has the right to ask for a second opinion if it has reason to doubt the certification. The Town will pay for the employee to get a certification from a second doctor, which the Town will select. The Town may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the Town will require the opinion of a third doctor. The Town and the employee will mutually select the third doctor, and the Town will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

J. Certification for the Family Member’s Serious Health Condition

The Town will require certification for the family member’s serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. The Town may directly contact the employee’s family member’s health care provider for verification or clarification purposes using a health care professional, the Human Resources Director or the Total Compensation Coordinator. The Town will not use the employee’s direct supervisor for this contact. Before the Town makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, the Town will obtain the employee’s family member’s permission for clarification of individually identifiable health information.

The Town has the right to ask for a second opinion if it has reason to doubt the certification. The Town will pay for the employee’s family member to get a certification from a second doctor, which the Town will select. The Town may deny FMLA leave to an employee whose family member refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the Town will require the opinion of a third doctor. The Town and the employee will mutually select the third doctor, and the Town will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

K. Certification of Qualifying Exigency for Military Family Leave

The Town will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

L. Certification for Serious Injury or Illness of Covered Service member for Military Family Leave

The Town will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

M. Recertification

The Town may request recertification for the serious health condition of the employee or the employee’s family member no more frequently than every 30 days and only when circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, the Town may request recertification for the serious health condition of the employee or the employee’s family member every six months in connection with an FMLA absence. The Town may provide the employee’s health care provider with the employee’s attendance records and ask whether need for leave is consistent with the employee’s serious health condition.

N. Procedure for Requesting FMLA Leave

All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the HR manager. Within five business days after the employee has provided this notice, the HR manager will complete and provide the employee with a Notice of Eligibility and Rights. When the need for the leave is foreseeable, the employee must provide the employer with at least 30 days' notice.

When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with the Town's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

O. Designation of FMLA Leave

Within five business days after the employee has submitted the appropriate certification form, the HR manager will complete and provide the employee with a written response to the employee's request for FMLA. On a basis that does not discriminate against employees on FMLA leave, the Town may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work

§ 33-18.1 Massachusetts Maternity Leave Act [5-5-2008 ATM, Art.3, 5-4-2009 ATM Art. 3]

M.G.L. Chapter 149, Section 105D provides that a female employee who has completed the initial probationary period set by the terms of her employment or, if there is no such probationary period, has been employed by the same employer for at least three consecutive months as a Full-Time employee, is entitled to a maternity leave not exceed eight weeks. This leave may be taken for the purpose of giving birth, adopting a child under the age of eighteen, or adopting a child under the age of twenty-three if the child is mentally or physically disabled. Employees are required to give at least two weeks' notice of their anticipated date of departure and intention to return.

Employees taking advantage of this leave will be restored to their previous, or a similar, position with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of her leave. This leave is traditionally unpaid. However, any accrued or earned vacation, personal, or floating holidays may be used with this leave. Sick time may be used provided there is a doctor's note stating that time is needed to recuperate from giving birth.

If an employee elects maternity leave under the Family and Medical Leave Act, the Town will apply the Massachusetts Maternity Law benefit concurrently with the benefits allowed under the Family and Medical Leave Act See 33-18 Family and Medical Leave Act for more information.

Male employees who are not eligible for the Family and Medical Leave Act (FMLA) may apply for a Personal Leave of Absence to cover paternity leave. [Added 5-4-2009 ATM, Art. 3]

§ 33-19. Small Necessities Leave Act. [Amended 5-5-2003 ATM, Art. 3; 5-3-2004 ATM, Art. 3,]

The Small Necessities Leave Act allows each regular full-time and regular part-time A employee a total of 24 hours of unpaid leave during any twelve-month period, in addition to leave available under the FMLA, to (1) participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school; (2) accompany the son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations; and (3) accompany an elderly relative (an individual of at least 60 years of age who is related by blood or marriage to the employee, including a parent) of the employee to routine medical or dental appointments or appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes. If the necessity for leave is foreseeable, an employee must provide the department head with not less than seven days' notice of the need for leave. If the necessity for leave is not foreseeable, an employee shall provide such notice as is practicable. An employee

taking leave for any of the aforementioned circumstances may substitute any accrued paid vacation and/or personal leave for any leave provided.

§ 33-20. Sick leave with pay.[Amended 5-2-1994 ATM, Art. 3; 5-6-1998 STM, Art. 3; 5-7-2001 ATM, Art. 3; 5-6-2002 ATM, Art 3; 5-5-2003 ATM, Art. 3; 5-3-2004 ATM, Art. 3; 5-2-2005 ATM, Art. 3, 5-5-2008 ATM, Art. 3, 5-4-2009 ATM, Art. 3]

- A. Each regular full-time Group A and regular part-time Group B employee shall be entitled to sick leave with pay. With the exception of up to ten (10) days per fiscal year, sick leave may only be used only for an employee's personal illness, well-care and sick medical and dental appointments and for the Employee's FMLA leave for their own health condition. The ten (10) days of sick leave that may be used during the fiscal year are for use of your immediate family only, and to be used during that fiscal year only. The same amount of sick days will accrue, but not the designation.
- B. Each regular full-time employee will earn sick leave at the regular rate of pay of the employee at the rate of 1 1/4 (10 hours) normal workdays of sick leave earned for each full calendar month of work, to a maximum accumulation of 205 workdays. Each regular part-time A employee will earn sick leave at the regular rate of pay of the employee on a pro rata basis. The maximum accumulation is the same as that for a regular full-time employee. Sick leave with pay is credited on the last day of the month.
- C. Any person returning to work after an absence, due to illness, in excess of five (5) consecutive school days may be required by the Human Resources Department to obtain a written statement from a doctor that the absent person is capable of performing teaching duties.
- D. For any one year's total absence creditable to sick leave in excess of ten (10) days not covered under Section C, a doctor's written verification of illness may be requested by the Human Resources Department to allow payment for such days.
- E. Time off payroll is not considered time worked and therefore no sick leave will be credited to an employee who is off payroll for more than one work day during the calendar month. The Town may request a medical certificate at any time. A medical certificate must state specifically that an employee is incapacitated and therefore can not perform the duties and responsibilities as specified in the employee's job description. Department heads may require additional medical certification if appropriate.
- F. Sick leave already accumulated by the eligible employee as of July 1, 1985, will continue to be applicable. Any employee transferring from a qualifying regular part-time A position to a qualifying full-time position, or reverse, shall take with him/her all qualified normal sick workdays accumulated to the date of the transfer. In case of retirement or termination of employment, no payment shall be made for accumulated unused sick leave.
- G. In the event that any employee exhausts his or her accumulated sick time, each employee that falls under the Salary Administration Plan, with the permission of his or her department head and Personnel Committee, may donate up to six days of his or her sick time to the affected employee in a given fiscal year. The affected employee must first exhaust all personal days, the floating holiday, vacation time and sick leave, before being granted donated sick leave.

- H. An employee that meets the criteria for Family Medical Leave or Massachusetts Maternity Leave will be placed on that leave in concurrence with their use of sick time.
- I. In the event that any employee exhausts his or her accumulated sick time, each employee that falls under the Salary Administration Plan, with the permission of his or her department head and Personnel Committee, may donate up to six days of his or her sick time to the affected employee in a given fiscal year. The affected employee must first exhaust all personal days, the floating holiday, vacation time and sick leave.

§ 33-21. Military leave. [Amended 5-5-2003 ATM, Art. 3, 5-5-2008 ATM, Art. 3]

Regular full-time employees who are in the National Guard or Armed Services Reserves and are called to temporary military duty not exceeding two weeks shall receive the difference in pay between their regular Town pay and their military pay. Such employee may use his/her normal vacation time for his/her military duty if he/she desires.

A full-time employee will be granted an absence without pay to enter active duty in any branch of the U.S. Armed Forces. Should an employee enter military service, their right to reemployment is protected under current federal law when their military obligation is completed, unless they are away for more than five years. Employees may choose to continue their medical benefits while on leave, provided they remain current with the payment schedule. Employees must reapply to the Town within 90 days of separation from the military in order to take advantage of this right. Every effort will then be made to reinstate the employee to their former position of similar status and pay. Employees will not lose seniority. Employees who take a Military Leave under USERRA will not lose seniority. [Amended 5-5-2008 ATM, Art. 3]

§ 33-22. Bereavement leave. [Amended 5-5-2003 ATM, Art. 3; 5-3-2005 ATM, Art. 3, 5-5-2008 ATM, Art. 3]

- A. Bereavement Leave of Absence for Five (5) working days' shall be granted a full time employee upon evidence of the death of a member of his/her immediate family which is defined as mother, father, child, sister, brother or spouse, or person residing in the household based on the requirements below, of the employee or their spouse. This time is for the purpose of making arrangements and attending the funeral of the above mentioned family member.
- B. Bereavement Leave of Absence for Three (3) working days' shall be granted a full time employee upon evidence of the death of aunt, uncle, grandparent or grandchild of the employee or their spouse. This time is for the purpose of making arrangements and attending the funeral of the above mentioned family member.
- C. An additional two (2) days leave of absence may be granted, at the discretion of the Town Manager upon evidence of the death of the sister, brother, grandparent or grandchild of the employee or their spouse, where, in the opinion of the Town Manager, circumstances warrant the additional leave, or the deceased person had resided in the household of the employee.
- D. Denial of such request of additional bereavement leave shall not give rise to the institution of the grievance procedure hereunder. In order to be eligible for the aforementioned bereavement leave in connection with the death of an individual residing in the employee's household, the employee, shall provide evidence (such as an affidavit) regarding the deceased's status as an individual residing in the employee's household. It is further agreed by the parties that the

extension of bereavement leave benefits to employees in connection with the death of an individual residing in the employee's household shall establish no precedent or past practice as to the extension of other employment benefits in connection with individuals residing in an employee's household.

§ 33-23. Jury duty with pay. [Amended 5-3-2004 ATM, Art. 3, 5-1-2006 ATM, Art. 3, 5-5-2008 ATM, Art. 3]

Each Full Time, Part Time A& B employees who are asked to sit on a trial or grand jury shall be paid by the Town an amount equal to the difference between the compensation paid the employee for a normal working period and the amount paid by the court, excluding any allowance for travel and lodging., for as long as the employee is required to participate in the trial.

§ 33-24. Overtime pay. [Amended 5-7-2001 ATM, Art. 3; 5-3-2005 ATM, Art. 3, 5-4-2009 ATM, Art. 3]

Overtime will be worked only with the prior authorization of the department head. Sufficient funds must be available in the budget before overtime work is assigned. Each regular full-time employee, exclusive of exempt employees, who are required to work in excess of 40 hours in any one workweek, shall be paid at time-and-one-half the employee's straight-time hourly rate. Vacation Time, Sick Days, Holiday Pay, Personal Time and Floating Holidays are eligible in calculating the 40 hour work week. Compensatory time off may be used in lieu of cash overtime compensation and is calculated in the same manner but only if a prior voluntary agreement or understanding has been reached between the department head and the employee. The department head is not required to offer the option of compensatory time.

§ 33-25. Scheduled work hours. [Amended 5-7-2007 ATM, Art. 56, 5-5-2008 ATM, Art. 3]

The department head, with the approval of the board, committee or commission responsible for the department and the Town Manager, will establish and post permanently on the department bulletin board the regular working hours for all employees. While the department head will do their best to keep employees on a regular schedule, there will be times that the department head will have to change the schedule to best suit the needs of the department. In these cases, the department will try to give the employees as much notice as possible of the changes. The normal lunch period will not be a paid period.

§ 33-26. Medical examination. [Amended 5-7-2007 ATM, Art. 56]

If the department head and the Town Manager decide a specific classification should require a physical examination prior to the hiring of a new employee or the transfer or promotion of a Town employee, such physical examination by a physician acceptable to the Town Manager shall be paid by the department involved.

§ 33-27. Grievance procedure. [Amended 5-5-2003 ATM, Art. 3, 5-7-2007 ATM, Art. 56, 5-5-2008 ATM, Art. 3]

A. Grievances must be submitted in writing within seven working days of the infraction itself or at which time the grievant became aware of such infraction. Employees who are in their

first six months of employment are not permitted to use the Grievance Procedure. [**Amended 5-5-2008 ATM, Art. 3**]

- B. In case that the supervisor is the Human Resources Director, the employee may send a written complaint directly to the Town Manager. In the case that the Supervisor is the Town Manager the employee may send a written complaint directly to the Personnel Board. [**Amended 5-5-2008 ATM, Art. 3**]
- C. If the Human Resources Director has not given the employee an acceptable reply within 15 working days, the employee may enter a written complaint to the Personnel Board. [**Amended 5-5-2008 ATM, Art. 3**]
- D. If the Personnel Board has not given the employee an acceptable reply within 15 working days or a practicable time that coincides with the board's meeting schedule, the employee may enter a written complaint to Town Manager. [**Amended 5-5-2008 ATM, Art. 3**]
- E. The Town Manager must hold a hearing with the employee within 15 working days and give a written response to the employee within 15 working days of the hearing. [**Amended 5-5-2008 ATM, Art. 3**]
- F. The response of the Town Manager shall be final. [**Added 5-5-2008 ATM, Art. 3**]

§ 33-28. Disciplinary procedures. [Added 5-6-1996 ATM, Art. 7; amended 5-5-2003 ATM, Art. 3; 5-3-2004 ATM, Art. 3; 5-2-2005 ATM, Art. 3; 5-7-2007 ATM, Art. 56, 5-5-2008 ATM, Art. 3]

- A. The goal of management is to develop productive employees. Managers must keep all employees informed of management's expectations in the areas of job performance and behavior through regular meetings and discussions. Management must thoroughly investigate and document performance issues. Managers should seek advice from the Human Resources Director on appropriate procedures.
- B. Employees are expected to conduct themselves in a professional and respectful manner consistent with the high standards held by the Town. The following list of infractions, although not intended to be all-inclusive, illustrate some of the breaches of conduct that may result in disciplinary action, up to and including dismissal. This does not alter the "at will" nature of employment with the Town.
 - (1) Violation of the Town's policies.
 - (2) Use of profane or abusive language, or rude or discourteous behavior
 - (3) Dishonesty.
 - (4) Misappropriation of Town funds or assets.
 - (5) Excessive or unexcused absences or tardiness or fraudulent use of leave time.
 - (6) Conducting personal business during work hours.

- (7) Neglect of job responsibilities. [**Amended 5-5-2008 ATM, Art. 3**]
- (8) Insubordination.
- (9) Falsifying or unauthorized destruction of records, mail or other documents.
- (10) Destruction, unauthorized removal, or theft of Town property or the property of others located on Town premises.

C. If employees exhibit inappropriate conduct or fail to meet performance standards, they may be subject to the Town's disciplinary procedures. Disciplinary procedures, outlined below, in no way alter the employment at will relationship.

Verbal reprimand: Management must meet with the employee to communicate the warning and must give the employee a written summary which documents the infraction and describes how the employee failed to meet the acceptable standards of performance. The employee should be counseled on ways to improve performance. A copy of the written summary will be placed in the employee's personnel file. [**Amended 5-4-2009 ATM, Art. 3**]

Written reprimand. Management must meet with the employee and give him/her a formal written reprimand which fully documents the infraction and a copy placed in the employee's personnel file.

Suspension. A suspension is the temporary and involuntary separation of an employee from employment. The purpose of a suspension is to serve as a final warning to an employee that continued poor performance or misbehavior will result in dismissal. All suspensions must be documented in writing and a determination letter given to the employee by management and a copy placed in the employee's personnel file. Whenever possible, the Human Resources Department will be consulted prior to issuing a suspension.

Dismissal. Dismissal is the permanent and involuntary separation of a person from employment with the Town. Issues surrounding the dismissal must be documented.

D. Management reserves the right to determine at which step of the disciplinary process to begin. Options range from an verbal reprimand up to and including immediate dismissal. This decision will be based on the severity of the infraction. If necessary, employees may be put on administrative leave with pay pending an investigation. [**Amended 5-4-2009 ATM, Art. 3**]

E. All employees are entitled to a pre-termination meeting with the Human Resources Director and the Town Manager at which they have an opportunity to present their case. [**Amended 5-5-2008 ATM, Art. 3**]

F. Employees involved in any step of the disciplinary process are not eligible for consideration under §33-9 Step Rate Increases until improvement has been documented and/or a period of time as defined by the Town Manager and Department Head has expired with no additional disciplinary actions.

§ 33-29. Personnel Board. [Amended Amended 5-6-2002 ATM, Art. 3; 5-5-2003 ATM, Art. 3, 5-7-2007 ATM, Art. 56]

- A. There shall be a Personnel Board which shall consist of five members appointed by the Board of Selectmen. The Chairman of the Appropriation Committee or his designate shall serve ex officio but shall have no vote on any matter coming before the Committee. The Town Manager will be responsible for the administration of the Classification and Pay Schedule
- B. No member of the Personnel Board, except the ex officio member, shall be a Town employee, elected official of the Town or member of any standing board, committee or commission of the Town. All members of said Board shall be residents of the Town and shall serve without compensation. Each member of the Personnel Board appointed by the Selectmen shall serve for a term of three years beginning on the May 1 following the expiration of the previous term. Each such member shall hold office until his/her successor is appointed in the manner provided above and qualified.
- C. Members of the Personnel Board serving upon the effective date of this chapter shall serve until the expiration of their respective terms. Upon the expiration of such terms, the Selectmen shall appoint members for successive three-year terms.
- D. If any member shall resign or otherwise vacate his/her office (whether by terminating his/her residence in the Town or by his/her candidacy for election to any Town office or by accepting any other voluntary or paid Town position) his/her successor shall be appointed forthwith in the same manner as was the member so resigning or vacating. Such successor shall serve until the expiration of the term of the member so resigning or vacating.
- E. The Personnel Board shall organize annually, as soon as possible after May 1 of each year, at the call of the then Chairman or, lacking a Chairman, any member of the Board and shall elect a Chairman and a Clerk from among its members. The Chairman and Clerk shall each hold office until his/her respective successor has been elected. In the event a vacancy occurs in the office of the Chairman or Clerk, the Personnel Board shall elect a successor Chairman or successor Clerk from among its members, such successor to serve until the next organizational meeting of the Personnel Board and until his/her successor has been elected.
- F. The Human Resources Director shall maintain records of all employees subject to this plan, including therein such information as it deems desirable, said records to be kept by the Human Resources Director, under the direction of the Town Manager. Department heads shall furnish such information as shall be requested by the Town Manager. The Human Resources Director shall also check on matters covered by the plan and shall bring any deviations to the attention of the Town Manager. The Personnel Board shall have the authority to review the work of all positions subject to the provisions of this chapter and shall recommend changes in said positions as well as adjustments to salaries as it deems advisable. In addition the Personnel Board shall make an annual report to the Town, including recommendations on any matters related to the plan which said Board deems appropriate to be considered by the Town.

§ 33-30. Meetings of Board and employees.[Amended 5-5-2008 ATM, Art. 3]

- A. All employees shall have the right to request an appointment to confer with the Board on any matter which is of interest or concern to them and which is covered by the plan.
- B. The Personnel Board shall meet at least once annually with all department heads, Selectmen and the Appropriations Committee Chairman.

C. The Personnel Board shall meet annually with all Town employees.

D. The Personnel Board shall meet with the Human Resources Director monthly. [Added 5-5-2008 ATM, Art. 3]

§ 33-31. Amendment of Classification and Pay Schedule. [Amended 5-7-2001 ATM, Art. 3, 5-7-2007 ATM, Art. 56]

The Classification and Pay Schedule (§ 33-36) may be amended in the same manner in which the Town bylaw may be amended; provided, however, that no amendment to the schedule shall be made until it has been presented by signed petition addressed to and submitted to the Personnel Board and acted upon by the Town Manager. Any proposed amendment to the Schedule must first be reviewed by the Board prior to any review by the Appropriations Committee during the budgeting process. Upon receipt of such a written petition, the Board, after giving the petitioner, the heads of the departments and employees affected at least three days' written notice, shall hold a hearing of the parties interested to consider the proposed amendment. If the Personnel Board shall fail to act on the amendment so presented within 15 days after the hearing thereon, the Board shall be deemed to have disapproved the amendment. The petition may then be presented to the Town Meeting for consideration and action, if so desired. The Board may of its own motion after a similar hearing of or conference with the parties interested propose an amendment to the schedule.

§ 33-32. Civil Service Law.

Nothing in this chapter or in the schedule shall be construed to conflict with Chapter 31 of the General Laws.

§ 33-33. Discrimination and sexual harassment. [Added 5-5-1997 ATM, Art. 3; amended 5-5-2003 ATM, Art. 3, 5-7-2007 ATM, Art. 4, 5-7-2007 ATM, Art. 56, 5-5-2008 ATM, Art. 3, 5-4-2009 ATM, Art. 3]

A. In accordance with applicable federal and state laws, Town employees or contractors paid by the Town may not engage in any discriminatory practices or activities. Discrimination based upon a person's race, color, religious creed, national origin, ancestry, genetic information, gender, sexual orientation, veteran status, age or disability is prohibited with respect to hiring, firing, compensation, terms and conditions of employment and in all areas of the workplace.

B. Sexual Harassment Policy of the Town of Hopkinton.

(1) Introduction.

(a) It is the goal of the Town of Hopkinton to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by the Town. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be

tolerated, and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

- (b) Because the Town takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment, and where it is determined that such inappropriate conduct has occurred, the Town will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.
 - (c) Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.
- (2) Definition of sexual harassment.
- (a) 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:
 - [1] Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or a basis for employment decisions;
or
 - [2] 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.
 - (b) 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.
 - (c) 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 workplace environment that is hostile, offensive, intimidating or humiliating to male or female workers may also constitute sexual harassment.
 - (d) 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.

- [1] Unwelcome sexual advances, whether they involve physical touching or not.
 - [2] 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.
 - [3] Displaying sexually suggestive objects, pictures, cartoons.
 - [4] Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments.
 - [5] Inquiries into one's sexual experiences.
 - [6] Discussion of one's sexual activities.
- (e) All employees should take special note that, as stated above, 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 Town.
- (3) Complaints of sexual harassment by any employee who believes that he or she has been subjected to sexual harassment, he/she has the right to file a complaint with the Town Manager. This may be done in writing or verbally. If any employee would like to file a complaint, he/she may do so by contacting the Human Resources Director or the Police Chief. Please see the table below for exceptions. **[Amended 5-4-2009 ATM, Art. 3]**

<u>Harassment Allegations Against:</u>	<u>File Complaint With:</u>
<u>Human Resources Director</u>	<u>Town Manager</u>
<u>Police Chief</u>	<u>Chair of Personnel Board</u>
<u>Town Manager</u>	<u>Chair of Personnel Board</u>

- (4) Sexual harassment investigation.
- (a) When the Town receives the complaint it will promptly investigate the allegation in a fair and expeditious manner by the Human Resources Director or his/her designee. 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. The Town Manager will also interview the person alleged to have committed sexual harassment. When the investigation is completed, the Human Resources Director or his or her designee will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the result of that investigation. If allegations are against the Human Resources Director the above procedure and processes will be conducted by the Personnel Board. **[Amended 5-5-2008 ATM, Art. 3, 5-4-2009 ATM, Art. 3]** See Table Below for Exceptions.

<u>Harassment Allegations Against:</u>	<u>Investigation Led By:</u>
<u>Human Resources Director</u>	<u>Town Manager</u>
<u>Police Chief</u>	<u>Chair of Personnel Board</u>
<u>Town Manager</u>	<u>Chair of Personnel Board</u>

- (b) If it is determined that inappropriate conduct has occurred, the following Town officer will act promptly to eliminate the offending conduct and take the appropriate disciplinary actions.

<u>Harassment Committed By:</u>	<u>Follow Through Person:</u>
<u>Human Resources Director</u>	<u>Town Manager</u>
<u>Police Chief</u>	<u>Chair of Personnel Board</u>
<u>Town Manager</u>	<u>Chair of Personnel Board</u>
<u>All other(s)</u>	<u>Town Manager</u>

- (5) Disciplinary action. If it is determined that inappropriate conduct has been committed by an employee, the Town Manager will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment and may include such other forms of disciplinary action as deemed appropriate under the circumstances.

- (6) State and federal remedies. In addition to the above, if an employee believes they have been subjected to sexual harassment, they may file a formal complaint with either or both of the government agencies set below. Using the Town's complaint process does not prohibit an employee from filing a complaint with these agencies. An employee has 300 days from the date of the last incident, to file a claim with the EEOC and MCAD. **[Amended 5-5-2008 ATM, Art. 3]**

- (a) The United States Equal Employment Opportunity Commission (EEOC)

JFK Bldg. Government Center - 4th Floor
(617) 565-3200
Boston, MA 02203

- (b) The Massachusetts Commission Against Discrimination (MCAD)

Boston Office:
One Ashburton Place - Rm 601
Boston, MA 02108
(617) 727-3990

Springfield Office:
424 Dwight Street, Rm 220
Springfield, MA 01103
(413) 739-2145

- C. It is the responsibility of all managers to create an atmosphere free of discrimination or harassment, sexual or otherwise.
- D. Any employee who believes that he/she has been discriminated against on the basis of any of the factors listed above, including sexual harassment, should first attempt to achieve an informal resolution of the complaint. If this attempt is unsuccessful, the employee may then file a written complaint with the Town EEO Officer, who is the Human Resources Director and or his/her designee, within 30 days of the incident. No person filing a complaint shall be subjected to retribution for doing so. **[Amended 5-5-2008 ATM, Art. 3]**

- E. All complaints shall be promptly and thoroughly investigated within 15 days by the Human Resources Director and or his/her designee, and a report of the findings of such investigation and recommendations for action shall be presented to the Town Manager. Final decisions regarding the actions to be taken against any person found to have engaged in any discriminatory behavior or to have made false charges against another person will be made by the Board of Selectmen. Actions may include counseling and disciplinary procedures. In case of allegations against the Town Manager the above process will be conducted by the Chair of the Personnel Board or her/his designee. **[Amended 5-5-2008 ATM, Art. 3]**

- F. Retaliation: Any employee who, in good faith, reports an alleged incident of sexual or other harassment will under no circumstances be subject to reprisal or retaliation of any kind. Any employee who feels he or she has been subjected to retaliation should report him/her to his or her supervisor or the Human Resources Department or the reporting chain as detailed in 33-33 3. Any employee, however, who is found to have knowingly made a false accusation of sexual harassment or retaliation, may be subject to appropriate disciplinary action up to and including termination. **[Added 5-4-2009 ATM, Art. 3]**

§ 33-34. Severability.

In the event that any provision of this chapter, or application thereof, shall be held to be invalid by the proper authorities, this shall not be construed to affect the validity of any other provision, or application thereof, of this chapter.

§ 33-35. Salaries of elected officials.

The Personnel Board, though not responsible for elected officials salaries, will be available in an advisory capacity if so requested.

§ 33-36. Classification and Pay Schedule.

Appendix A (Attached to the 2008 Appropriation Committee Recommendations) ³

§ 33-37. Longevity pay. [Added 4-11-1988 ATM, Art. 2; 5-5-1997 ATM, Art. 3; 5-2-2005 ATM, Art. 3, 5-1-2006 ATM. Art 3, 5-5-2008 ATM, Art. 3]

- A. Each full-time employee hired before July 1, 2008 who is covered by the provisions of the Town Personnel Bylaws shall receive a longevity payment after completing the consecutive years of service outlined below. The designated longevity payment will be paid in a lump sum in July each year and is based on the number of completed consecutive years of full-time employment by the Town in positions covered by § 33-36 of this chapter. **[Amended 5-5-2008 ATM, Art. 3]**

Years of Service Completed	Lump Sum Payment
10 Years or more but less than 15 years	\$350.00
15 years or more but less than 20 years	\$400.00
20 years or more but less than 25 years	\$750.00

25 years or more but less than 30 years	\$1,250.00
30 years or more	\$2,000.00

B. For purposes of this section, consecutive years of service shall mean the length of an employee's uninterrupted service in years in the employ of the Town of Hopkinton and in a position included within the Town Bylaws Salary and Classification Schedule in a regular, full-time position. Unpaid, approved leaves of absence shall not be considered as breaks in said consecutive years of service; however, only years, months and days spent on paid leaves of absence shall be included in the computation of consecutive years of service.

§ 33-38. Health Insurance Portability and Accountability Act of 1996 (HIPPA). [Added 5-5-2003 ATM, Art. , 5-5-2008 ATM, Art. 3]

HIPPA describes how the Town may use and disclose your protected health information to carry out treatment, payment or health care operations and for other purposes that are permitted or required by law. It also describes your rights to access and control your protected health information. "Protected Health information" is information about you, including demographic information, that may identify you and that relates to your past, present or future physical or mental health or condition and related health care services. Questions regarding HIPPA should be directed to the Human Resources Director, the Town's Privacy Officer. **[Amended 5-5-2008 ATM, Art. 3]**

§ 33-39. Technology Usage. [Added 5-5-2003 ATM, Art. 3, 5-4-2009 ATM, Art. 3]

Due to constant upgrades and advances in technology it is not possible to exhaustively list all types of technologies currently covered in computer, communication, and information technology systems ranging from computers, internet services, server usage, e-mail, telephones, PDA's and fax machines that are the Property of the Town of Hopkinton or are used in the regular conduct of Town of Hopkinton business that are reimbursed by the Town of Hopkinton. Any employee abusing the privileges and authorized uses of this technology will be subject to disciplinary action deemed appropriate by the Town's disciplinary policy up to and including termination. Please see the separate handout regarding Internet and E-Mail usage for further details regarding our technology policies.

§ 33-40. Performance evaluations. [Added 5-5-2003 ATM, Art. 3; 5-3-2004 ATM, Art. 3, 5-5-2008 ATM, Art. 3]

All regular full-time and regular part-time A and B employees are evaluated annually. At the beginning of every performance period (July), the supervisor(s) will review the job description for all reporting personnel. Objectives for the fiscal year will be discussed as will the methods to successfully accomplish such goals.

At the conclusion of the performance period (June), the supervisor(s) will evaluate the employee's performance using the required form. The supervisor(s) will document significant accomplishments and any requirements for needed improvements in performance. The evaluation form will be submitted to the Personnel Director for review and signature prior to any discussion with the employee being evaluated.

After the evaluation has been reviewed, the supervisor(s) will arrange a meeting with the employee to discuss the performance evaluation. The employee will be given a copy of the evaluation form.

Employees may respond in writing to the evaluation and/or requirements for improvement. Responses will be added to the employee's evaluation. The evaluation shall be forwarded to the Personnel Director for review and placement in the employee's personnel file.

Performance evaluations are designed to provide a basis for better understanding between an employee and their supervisor(s) with respect to the employee's job performance, potential and development within the Town. Ongoing, informal meetings to discuss objectives and goals are encouraged.

Performance evaluations are used when deciding if a step increase is warranted but are not the sole basis for determining salary increases. In order to be eligible for a step increase, employees must have a current evaluation with an overall rating of Above Satisfactory on file with the human resources department. In order to be eligible for a COLA increase, the employee must have a current performance evaluation on file. **[Amended 5-5-2008 ATM, Art 3]**

§ 33-41 Recognition and Rewards [Added 5-3-2004 ATM, Art. 3]

An amount to be determined annually during the budgetary process shall be allocated for Recognition and Rewards Program.

§ 33-42 Drug Free Workplace [Added 5-3-2004 ATM, Art. 3; 5-2-2005 ATM, Art. 3, 5-5-2008 ATM, Art. 3]

Alcohol and illegal drugs in the workplace are a danger to us all. They impair safety and health, promote crime, lower work productivity and undermine the public's confidence in us.

The Town of Hopkinton, Massachusetts, (the "Town"), has recognized in the past the importance of maintaining awareness that a workplace which is drug and alcohol free enhances the welfare of its employees and citizens. A Federal Law, the Drug-Free Workplace Act of 1988, (P.L. 100-690), requires the Town to certify that it maintains a drug-free workplace as a condition of receiving federal grants and contracts. The requirements of this law give the Town the opportunity to reaffirm the following policy and its commitment to a work place free of drugs and alcohol.

- (1) The unlawful manufacture, distribution, dispensation, possession, or use of alcohol or any controlled substance is prohibited at any time on Town property or on other work sites where Town employees may be assigned or where Town business may be conducted.
- (2) It is the goal for the Town to maintain an alcohol-free and a drug-free workplace. Any employee who violates the Town's drug-free and alcohol free workplace policy will be subject to disciplinary action, up to and including immediate suspension and/or termination. The Town may, in its sole discretion, inform an employee suffering from drug abuse of appropriate rehabilitation programs. Participation in such a program shall not, however, affect or restrict the Town's right to impose such disciplinary measures as it deems appropriate, including suspension or termination. **3. [Amended 5-5-2008 ATM, Art. 3]**
- (3) It is a condition of continued employment that each employee abides by this policy. Each employee must notify the Town, through his/her immediate supervisor, and within five (5) days of such conviction, of any criminal conviction relative to the manufacture, distribution, dispensation, possession, or use of drugs, if such violation occurred in the workplace, or in a location other than the workplace if such violation would impair the ability of a Town employee to perform his or her job.

- (4) The Town must then notify the appropriate Federal Agency within ten (10) days of receiving such a notice of conviction from an employee. In addition, no later than thirty (30) days after notice of a conviction of an employee for a drug violation occurring in the workplace, or in a location other than the workplace, if such violation would impair the ability of a Town worker to perform his or her job, the Town may take such appropriate disciplinary action against the employee, up to and including the suspension or termination of the employee from employment, as the Town in its sole discretion deems appropriate.
- (5) This policy shall be distributed to all employees and compliance with this policy shall be a condition of continued employment with the Town.
- (6) This policy is in addition to current policy and practices of the Town relative to controlling the illegal use of drugs and does not supercede any policy or practice.
- (7) As a condition of employment, all new employees must consent to and participate in a pre-employment drug screen. All offers of employment are contingent upon a satisfactory screening.
- (8) Positive Test Results (for Pre-employment): All offers of employment for all employees are contingent upon an employee passing a drug screen. **[Added 5-5-2008 ATM, Art 3]**
- (9) All positive test results will be confirmed by a laboratory and reviewed by a medical review officer. If the positive result is confirmed the offer will be withdrawn and the applicant may not apply again for a period of one year. This does not guarantee an offer at that time, the applicant must again meet the qualifications and go through the selection process for the position that they are applying for before any offer could be made. **[Added 5-5-2008 ATM, Art 3]**
- (10) Any accident involving a Town owned vehicle will require a drug and alcohol test. **[Added 5-5-2008 ATM, Art 3]**

§ 33-43 Criminal Offender Record Investigation (CORI) [Added 5-3-2004 ATM, Art. 3]

The Town shall conduct a Criminal Offender Record Information (CORI) investigation on current and prospective employees and volunteers of the Town who may have unsupervised or unobserved contact with other employees or volunteers or with persons participating in Town programs. Such positions would include those under the jurisdiction of the Parks and Recreation Department and the Council on Aging as well as any other positions under the authority of other Town departments which may involve unsupervised or unobserved contact with others.

§ 33-44 Dress Code Policy [Added 5-5-2008 ATM, Art. 3]

The Town of Hopkinton considers it very important that all employees are well-groomed, neat, and dress appropriately for your job function and, while we trust each employee's common sense and good judgment, a dress code must be followed that is appropriate to the work environment. The town has adopted a business casual dress code but emphasizes some positions may call for more professional attire. Appropriate dress and hygiene are important in promoting a positive company image to our customers, both internally and externally. We want to stress a Business Casual Dress Code Policy is a benefit and must be adhered to in order to be retained.

Office Environment

While the Town observes a business casual dress environment, there may be situations requiring more formal attire. If you are conducting or attending meetings, seminars, roundtables, etc. where you come in contact with other business professionals, you are expected to represent the Town in a professional manner and dress appropriately for conducting such business. Know your audience, remember what you represent and dress accordingly. If you are unsure of the appropriate attire for a seminar, please call the provider of the seminar.

General Guidelines for Everyone

The Town wishes to provide a work environment that is free of safety hazards, offensive behavior and harassment of any kind. Therefore, the following clothing is NOT ACCEPTABLE: shorts or skirts that are more than two inches above the knee, flip flops, spandex; bare feet; pants, shorts, or skirts worn below the waistline; sexually provocative clothing; the observable lack of undergarments and exposed undergarments.

§ 33-45 Personal Conduct Policy [Added 5-5-2008, Art. 3]

Town of Hopkinton employees are expected to act honestly, conscientiously, reasonably and in good faith at all times having regard to their responsibilities, the interests of the Town of Hopkinton and the welfare of its residents.

Employees have an obligation to be present at work as required and to be absent from the workplace only with proper authorization; to carry out their duties in an efficient and competent manner, and maintain specified standards of performance; to comply with reasonable employer instructions and policies and to work as directed; to respect the privacy of individuals and use confidential information only for the purposes for which it was intended; to neither use, nor allow the use of Town of Hopkinton property, resources, or funds for other than authorized purposes; to incur no liability on the part of the Town of Hopkinton without proper authorization; and, to maintain all qualifications necessary for the performance of their duties legally and efficiently.

The intent of this policy is to ensure that: 1) employees meet the Town of Hopkinton's legitimate expectations in the areas of performance and behavior; 2) employees whose performance or behaviors are deficient are provided with the necessary assistance and motivation to meet the Town of Hopkinton's expectations; and 3) disciplinary action initiated against an employee is fair and appropriate.

Failure to behave in a manner consistent with the standards of conduct and policies included herein may result in disciplinary action being initiated against the offending employee. The Town of Hopkinton shall utilize a fair and equitable process in reviewing an employee's alleged violation of these standards and policies and shall discipline the employee, if called for, in a manner appropriate given the alleged violation.

This policy applies to all paid, appointive employees in Town Service other than those positions under the supervision and control of the School Committee. Employees subject only to those provisions in this order which are not specifically regulated by collective bargaining agreements.

§ 33-46 Americans with Disabilities Act [Added 5-4-2009 ATM, Art. 3]

It is the policy of the Town of Hopkinton not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions, and privileges of employment.

Additionally, the Americans with Disabilities Act (ADA) requires employers to reasonably accommodate qualified individuals with disabilities. It is the policy of the Town to comply with all Federal, state, and local laws concerning the employment of persons with disabilities. Town of Hopkinton will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of the job in question.

An individual who can be reasonably accommodated for the job in question, without undue hardship, will be given the same consideration for that position as any other employee or applicant.

All employees are required to comply with safety standards. Applicants who pose a direct threat to the health or safety of other individuals in the workplace, which threat cannot be eliminated by reasonable accommodation, will not be hired. Current employees who pose a direct threat to the health or safety of the other individuals in the workplace will be placed on appropriate leave until an organizational decision has been made in regard to the employee's immediate employment situation.

The Human Resources Department is responsible for implementing this policy, including resolution of reasonable accommodation, safety, and undue hardship issues.

Definitions

In implementing this policy, The Town of Hopkinton will be guided by the then-applicable definitions stated in the ADA or in case law construing the ADA, and applicable state and local law. . In the event of any conflict between the definitions in the ADA and the definitions in this policy, the legal definitions will control. The following discussion is provided for general guidance of employees and applicants in understanding the policy of The Town of Hopkinton.

- “Disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual. An individual who has such an impairment, has a record of such an impairment is also deemed a “disabled individual”. An individual may also be deemed “disabled” if that person is regarded as having such an impairment. However, in the “regarded as” instance, the situation is more complicated. Under amendments to the ADA in 2008, if the condition is transitory and minor, defined as having an actual or expected duration of 6 months or less, then the condition does not qualify as a disability.
- Generally, ameliorative measures such as medications and medical devices will not be considered in making a disability determination, although ordinary eyeglasses may be taken into consideration. So, for example, the mere fact that a person wears ordinary eyeglasses will not qualify that person as “disabled.” On the other hand, the fact that a person has a hearing aid or takes medications to address the impairment will not disqualify that person as being “disabled” if the person otherwise meets the definition of “disabled.”
- “Major life activity” may include things such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating or working. A “major life activity” may also include bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive systems.

- “Direct threat to safety” refers to a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.
- A “qualified individual with a disability” refers to an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or has applied for.

- “Reasonable accommodation” refers to making existing facilities readily accessible to and usable by individuals with disabilities, including but not limited to; job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modification of examinations, adjustment or modification of training materials, adjustment or modification of policies, and similar activities.

- “Undue hardship” refers to an action requiring significant difficulty or expense by the employer. The factors to be considered in determining an undue hardship include: (1) the nature and cost of the accommodation; (2) the overall financial resources of the facility at which the reasonable accommodation is to be made; (3) the number of persons employed at that facility; (4) the effect on expenses and resources or other impact upon that facility; (5) the overall financial resources of the Town; (6) the overall number of employees and facilities; (7) the operations of the particular facility as well as the entire Town; and (8) the relationship of the particular facility to the Town. These are not all of the factors but merely examples.

- “Essential job functions” refers to those activities of a job that are the core to performing the job in question.

**TOWN OF HOPKINTON SAP
EFFECTIVE July 1, 2009 – FOR FY10
SALARIED GROUP A (BI-WEEKLY RATE)**

GRADE	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
1	\$ 1,308.20	\$ 1,450.90	\$ 1,593.64	\$ 1,712.51	\$ 1,840.98
2	\$ 1,522.23	\$ 1,641.18	\$ 1,760.12	\$ 1,879.07	\$ 2,019.96
3	\$ 2,188.23	\$ 2,307.13	\$ 2,426.12	\$ 2,545.01	\$ 2,735.87
4	\$ 2,497.41	\$ 2,616.40	\$ 2,735.30	\$ 2,854.23	\$ 3,068.30
5	\$ 3,211.02	\$ 3,329.89	\$ 3,448.83	\$ 3,567.78	\$ 3,835.31
6	\$ 3,448.83	\$ 3,567.78	\$ 3,686.72	\$ 3,805.61	\$ 4,091.05

GRADE	POSITION TITLE
1	
2	ADMINISTRATIVE MANAGER ASSISTANT TOWN CLERK ASSISTANT TOWN ACCOUNTANT CONSERVATION ADMINISTRATOR INFORMATION SYSTEMS TECHNICIAN DEPUTY ASSESSOR
3	LIBRARY DIRECTOR PUBLIC HEALTH ADMINISTRATOR PLANNER
4	ASSISTANT FACILITIES DIRECTOR DIRECTOR OF INSPECTIONAL SERVICES HIGHWAY MANAGER HUMAN RESOURCES DIRECTOR PRINCIPAL ASSESSOR PLANNING DIRECTOR TREASURER/COLLECTOR WATER/SEWER MANAGER
5	FACILITIES DIRECTOR PUBLIC WORKS DIRECTOR
	FIRE CHIEF ** POLICE CHIEF ** FINANCE DIRECTOR** TOWN MANAGER**

**** CONTRACTUAL POSITIONS UNDER THE BOARD OF SELECTMEN**

GROUP B HOURLY

GRADE	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
1	\$11.22	\$12.77	\$ 14.33	\$ 15.88	\$ 18.69
2	\$13.70	\$15.26	\$ 16.83	\$ 18.38	\$ 19.95
3	\$14.33	\$15.88	\$ 17.46	\$ 19.00	\$ 20.56
4	\$14.66	\$16.51	\$ 18.07	\$ 19.63	\$ 21.18
5	\$15.88	\$17.75	\$ 19.31	\$ 20.87	\$ 22.42
6	\$17.71	\$19.00	\$ 20.56	\$ 22.13	\$ 23.69
7	\$22.13	\$23.23	\$ 24.39	\$ 25.44	\$ 26.89

POSITION TITLE	
1	CATALOGER DESK ATTENDENT FOOD SERVICE WORKER VAN DRIVER COUNCIL ON AGING
2	ACCOUNTING CLERK CUSTODIAN SECRETARY
3	ANIMAL CONTROL OFFICER ADMINISTRATIVE ASSISTANT ADMINISTRATIVE ASSISTANT/DISPATCHER OUTREACH WORKER
4	ASSISTANT TREASURER OUTREACH SUPERVISOR ASSISTANT DIRECTOR COUNCIL ON AGING
5	ASSISTANT LIBRARIAN TOTAL COMPENSATION COORDINATOR
6	COUNCIL ON AGING DIRECTOR YOUTH SERVICES LIBRARIAN ADULT SERVICES LIBRARIAN HEALTH INSPECTOR LOCAL INSPECTOR PARK AND RECREATION DIRECTOR
7	Executive Assistant

HOURLY NON-RATED, GROUP C

POSITION TITLE		HOURLY RATE OF PAY	
PUBLIC WORKS			
Highway			
Heavy Equipment Operator		\$	17.95
Truck Driver		\$	14.80
Heavy Equipment Operator (Snow Removal)		\$	19.91
Laborer (Full-time)		\$	12.83
Laborer (Part-time)		\$	12.04
Laborer (Full-time)	Seasonal	\$	10.19
Laborer (Part-time)	Seasonal	\$	9.32
Tree Warden		\$	14,072.46
Recycling Attendant		\$	13.31
Recycling Monitor		\$	13.31
Water and Sewer			
Meter Reader		\$	12.56
POLICE DEPARTMENT			
School Crossing Guard		\$	13.49
Dispatcher		\$	14.38
Student Officer		75 % of 1st step patrol officer	
FIRE DEPARTMENT			
Call Firefighter (Probationary)		\$	11.20
	Detail Rate	\$	16.79
Call Firefighter (Officer)		\$	16.19
	Detail Rate	\$	24.29
Call Firefighter (EMT)		\$	15.28
	Detail Rate	\$	22.92
Fire Alarm Linesman		\$	14.03
Fire Alarm Supervisor		\$	15.66
BOARD OF HEALTH			
Assistant Health Inspector		Portion of Permit Fees	
Nurse		\$20.72	\$21.56 \$22.89

POSITION TITLE		HOURLY RATE OF PAY	
BOARD OF SELECTMEN			
Sealer of Weights and Measures		\$2,976.91/yr	
Veteran's Administration		\$4,872.36/yr	
Computer Technician	\$ 14.70	\$ 16.05	\$17.74

LIBRARY			
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Assistant Children's Librarian	\$ 12.29	\$ 13.56	\$14.87
Clerk Typist	\$ 11.89	\$ 12.66	\$14.03
Page		\$ 8.92	

PARKS AND RECREATION

Chief Lifeguard	\$ 13.55	\$ 14.30	\$15.01
Lifeguard	\$ 12.12	\$ 12.81	\$13.55
Chief Swimming Instructor		\$ 12.57	
Swimming Instructor		\$ 11.79	
Chief Counselor	\$ 13.55	\$ 14.30	\$15.01
Counselor	\$ 9.21	\$ 9.75	\$10.31
Superintendent of Parks and Grounds		\$ 15.98	
Parking Lot Attendant		\$ 8.43	
Program Supervisor		\$ 12.57	

TOWN CLERK

Election Checkers		\$ 8.12	
Election Clerks		\$ 9.21	
Election Wardens		\$ 9.74	

INSPECTIONAL SERVICES

Mutual Aid Inspector		\$22/inspection	
Wiring Inspector	\$2,002.65/yr + \$22/insp		
Assistant Wiring Inspector		\$22/inspection	
Plumbing and Gas Inspector	\$2,002.65/yr + \$22/insp		
Assist. Plumbing and Gas Insp.		\$22/inspection	