

CHAPTER III

PERSONNEL

The power of the Town to adopt acts concerning personnel is contained in M.G.L. Chapter 41, Section 108C.

3-1 PURPOSE AND INTENT

The purpose of the personnel by-law is to establish a system of personnel administration, classification and compensation based on principles that ensure a uniform, fair and efficient application of personnel policies. The intent of this by-law is to provide a method of recruitment, selection, and development of a work force that is skilled and effective in accomplishing the service delivery missions of the Town. Personnel actions are to be made without regard to sex, race, religion, color, age as defined by law, handicap, sexual orientation, political affiliation or other non-job related factors. Nothing in this by-law shall be construed to conflict with Chapter 31 of the General Laws of the Commonwealth of Massachusetts (Civil Service).

3.2 APPLICATION

All Town departments and positions shall be subject to the provisions of this by-law and any regulations adopted pursuant to this by-law.

To the extent that any collective bargaining agreement conflicts with any provision of this by-law or rules & regulations promulgated under the authority of this by-law with respect to employees covered under such labor agreements, the provisions of the collective bargaining agreement shall prevail.

This personnel by-law and the regulations adopted pursuant to its provisions are intended to supersede any other previously adopted personnel by-law or other regulations or policies.

3-3 PERSONNEL BOARD.

3-3.1 *APPOINTMENT TO THE BOARD.* The personnel board shall consist of three members appointed for terms of three years each. The initial members appointed in 1968 were appointed for uneven terms to provide for subsequent terms on a staggered basis. Thereafter, positions made vacant by reason of expiration of a member's term shall be filled within ten days following each Annual Town Meeting. The Town Personnel Officer shall serve as an ex-officio member of the Personnel Board.

Each appointment shall be made by equally weighed input from the following three sources: the Board of Selectmen and the Finance Committee (each acting by majority vote) and the Moderator.

If a vacancy occurs in the membership of the committee due to any cause other than the expiration of a members term of office, a new member shall be appointed to fill such vacancy for the unexpired term thereof in the same manner specified above. Such vacancy shall be filled as soon as possible but in any event no later than 30 days from its occurrence.

No person shall serve upon the board who is an employee of the Town or who holds an elective Town office or who is a member of any other permanent board or commission.

3-3.2 *ADMINISTRATION*. The board is hereby authorized to administer the provisions of this chapter except for such duties as may be specially assigned by statute or bylaw to other Town officers, boards or committees; and it shall have authority to decide all questions regarding the application of the provisions of this chapter.

3-3.3 *POWERS OF THE BOARD*. The board may, from time to time issue, amend, or revoke administrative orders for the purpose of giving effect to the provisions of this chapter and such other bylaws and votes of the Town as the board may be responsible for administering and enforcing. The board shall maintain in its office a file of all such orders issued, which file shall be open to public inspection.

3-3.4 *OFFICERS*. The board, annually within 30 days following the Town Meeting, shall elect its own chairman and secretary, and shall establish its own rules of procedure.

3-3.5 *MEETINGS*. The board shall meet a minimum of once per quarter for the transaction of business under the provisions of this chapter; and it may hold such special Meetings as may be called by the chairman or by the secretary upon written request of a majority of the members of the board. Reasonable notice of all Meetings of the board shall be given to all members of the board. A majority of the total membership of the board shall constitute a quorum.

3-3.6 *DUTIES OF THE BOARD*. The duties of the board shall include the following:

a. To review and investigate, from time to time of its own motion, the work content and standard rates of compensation of all positions in the Town service other than those covered under collective bargaining agreements (union employees) or employment contracts, and to make such other investigation of the conditions of employment of Town employees, other than union or contract employees, as it deems necessary and proper, and to investigate any complaint relative to such conditions as may be filed with the board by any department head, Town employee or other person or organization.

b. To make such recommendation to any Town Meeting relative to the amendment of this chapter as the board deems necessary and proper.

c. To make such recommendations to the Annual Town Meeting relative to the compensation of Town officials and employees as it deems necessary and proper via the annual development and submission of a Wage & Salary Scale.

d. To file with the Town Clerk for inclusion in the annual report of the Town an annual report of its activities and recommendations.

e. To keep personnel records of all employees in its office. Such records shall contain all pertinent data as requested by the board. It shall be the duty of each Town employee to furnish to the board, upon its request, all data needed for the maintenance and completion of this record and such personnel records and reports as the board may require.

f. To propose and revise the Personnel Rules & Regulations of the Town of Essex as deemed necessary pursuant to this chapter.

3-4 ESTABLISHMENT OF A PERSONNEL SYSTEM

A personnel system shall be established by the adoption of rules and regulations pursuant to Section 3-5. The personnel system may include but not be limited to the following elements: a method of administration; a method of recruiting and selecting employees; a classification and compensation plan; a centralized record keeping system; personnel rules and regulations which indicate rights and obligations of employees; disciplinary procedures; and other elements that are deemed necessary.

3-5 ADOPTION OF RULES & REGULATIONS

Personnel rules and regulations defining the rights, benefits and obligations of employees subject to this by-law shall be adopted or amended as follows:

3-5.1 *PREPARATION OF RULES & REGULATIONS.* The Personnel Board shall prepare proposed personnel rules and regulations. Any member of the Board of Selectmen, the Personnel Board, any appointing authority, or any two employees may suggest rules and regulations for consideration by the Personnel Board. The Personnel Board need not consider any proposal already considered by the Board in the preceding six months. Any person suggesting a new or amended rule or regulation shall provide the substance and reason for the rule or regulation change in writing.

3-5.2 *PUBLIC HEARING.* The Personnel Board shall hold a public hearing on suggested rules and regulations. Notice of any suggested rules and regulations or amendments to rules and regulations shall be advertised in a newspaper circulated in the Town of Essex and the full text shall be available in Town Hall at least five business days prior to the public hearing at which such suggestions are to be considered. The Personnel Board shall submit a copy of any suggested rule or regulation to the Board of Selectmen.

3-5.3 *PERSONNEL BOARD ACTIONS ON SUGGESTED RULES & REGULATIONS.* Within a reasonable period of time after the public hearing on any suggested rule or regulation, the Personnel Board shall vote to determine if the suggested rule or regulation shall be recommended for adoption by the Board of Selectmen.

3-5.4 *ACTION BY THE BOARD OF SELECTMEN.* The Personnel Board shall transmit any recommendations for the adoption of personnel rules and regulations or amendments, including the text, in writing to the Board of Selectmen. The Board of Selectmen shall consider the recommendations of the Personnel Board and may adopt or reject the recommendations provided, however, if the Board of Selectmen fails to act, recommended rules and regulations shall be deemed adopted upon the expiration of forty-five days from the date of transmittal of the recommendations to the Board of Selectmen.

3-5.5 *POSTING OF RULES & REGULATIONS.* The Board of Selectmen shall cause the posting of the text of adopted rules and regulations in prominent work locations.

3-5.6 *OFFICIAL RECORD.* The Town Clerk shall maintain a compilation of all personnel rules and regulations adopted by the Board of Selectmen.

3.6 LIABILITY INSURANCE FOR POLICE AND FIREFIGHTERS

The town accepts liability with regard to bodily injuries to police officers and firefighters, including call firefighters, occurring during the course of and arising out of employment by the town, for all reasonable medical and hospital expenses not covered by insurance and weekly wages. The course of employment shall include going to or returning from fires or other town emergencies, participating in approved drills, parades, tests or trial of any equipment customarily used by the town or any other regularly approved supervised activity of the town police officers or firefighters. The following conditions shall apply:

- a. *TOTAL DISABILITY.* When such injuries shall result in the continuous inability of the injured employee to perform every duty pertaining to his/her regular occupation, he/she shall be paid by the town during the continuance of such disability, but not beyond the date he/she attains age 65, in the case of a permanent police officer at his/her regular rate of town pay; and in the case of a firefighter or part-time police officer, at a weekly wage equal to the town wage of a top grade permanent patrolman.
- b. *PARTIAL DISABILITY.* When such injuries shall result in the continuous inability of the injured employee to perform one or more important daily duties pertaining to his/her regular occupation he/she shall be paid by the town during the continuance of such disability, but not beyond the date he/she attains age 65, the difference between wages for which the town would be liable under total disability and the lesser wages actually earned during such period.
- c. *COVERAGE OF PART-TIME POLICE/FIRE WAGES.* In the event that a part-time police officer or a call firefighter is able to perform his/her normal, full-time job after sustaining on-duty injuries but is unable to perform his/her part-time police or call firefighter duties, he/she is entitled to the average of such wages lost while unable to perform those duties pursuant to M.G.L. c. 41 § 111F.
- d. *ASSIGNMENT OF OTHER BENEFITS.* Total and partial disability wage benefits shall be paid upon the condition that prior to his/her receiving such wages, the injured employee shall have executed all necessary documents assigning to the town, only to the extent the town is liable as set forth in paragraphs a, b, and c of this subsection, disability wage benefits under any existing town insurance policy covering such employee, social security disability benefits, state or county retirement system compensation or disability benefits due the employee as a result of such disability and any wage continuation or sick leave plan benefits actually received from his/her regular employer.
- e. *RIGHT TO EXAMINE INJURED PERSON.* The town at its own expense shall have the right and opportunity to examine the person of the injured employee when and as often as it may reasonably require during the pendency of its liability hereunder.

Nothing herein contained shall prevent the town from purchasing insurance to indemnify any portion of such liability.

3-7 SEVERABILITY

The provisions of this by-law and any regulations adopted pursuant to this by-law are severable. If any by-law provision or regulation is held invalid, the remaining provisions of the by-law or regulations shall not be affected thereby.

3-8 EFFECTIVE DATE/IMPLEMENTATION

This by-law shall take effect upon adoption by Annual Town Meeting. Upon the effective date of this by-law, the personnel rules and regulations prepared anticipating the passage of this by-law shall become effective. Such personnel rules and regulations shall remain in full force and effect until amended or revised in accordance with Section 3-5 of this by-law and shall supersede other personnel rules and regulations that may be in effect.