

TOWN OF TYNGSBOROUGH

PERSONNEL BY-LAW

Adopted – ATM 5/15/90

Pay and Classification Plan Adopted – ATM 5/91

Amendments – ATM 5/19/92; STM 5/19/92; STM 9/19/92; STM 9/14/93

Approved May 15, 1990

**TOWN OF TYNGSBOROUGH
PERSONNEL BY-LAW**

Section 1: Definitions

Administrative Authority:

The elected, or appointed official, or board having jurisdiction over a function or activity.

Administrative Orders:

Orders issued by the Plan Administrator for the purpose of By-Law clarification, and consistency in implementation and enforcement as described in Section 6.

Appointing Authority:

The authority granted the power to appoint employees for a particular department by the Town By-Laws or by State Statute.

Day:

A "day" shall be defined as one-fifth (1/5) of the average number of hours worked per week.

Board:

The Personnel Board as described in Section 4.

Department:

Any department, board, committee, commission, or other employing authority of the Town subject to this By-Law.

Department Head:

The officer, board, committee or other body having immediate supervision and control of a Department. In the case of a Department serving under the supervision and control of the Board of Selectmen, the officer, board, committee or other body immediately responsible to the Board of Selectmen for the Administration of the Department.

Emergency Employee:

A noncompetitive appointment to a position for a period of time, as determined with bi-weekly reviews by the Plan Administrative to prevent stoppage of public business or hazard or serious inconvenience to the public.

Employee:

A Permanent employee of the Town occupying a position of employment subject to this By-Law.

Employment:

Time during which a person is actively employed or is absent from active employment by reason of being granted an approved leave.

Orders

See Administrative Orders.

Plan:

This Town of Tyngsborough Personnel By-Law, the Pay and Classification Schedule as described in Section 5 and all Administrative Orders issued as described in Section 6.

Plan Administrator:

Town Administrator of Tyngsborough or the Administrator's designee.

Regular Permanent Full-time Employee:

Employee regularly scheduled to work at least 35 hours per workweek for fifty-two (52) workweeks per fiscal year.

Regular Part-time Employee:

Employee regularly scheduled to work at least 35 hours per work-week for fifty-two (52) work-weeks per fiscal year.

Schedule:

Pay and Classification Schedule.

Temporary Employee:

Person employed on a full-time or part-time basis for a specific short and defined period of time not to exceed six consecutive months in any one fiscal year.

Seasonal Employee:

See Temporary Employee.

Supplemental Part-Time:

Employees regularly scheduled to work less than 20 hours per workweek.

Town:

The Town of Tyngsborough.

Year:

Unless otherwise provided by this by-law, all references to annual, yearly, or year in this by-law shall refer to fiscal year commencing on July 1 and ending on the next following June 30.

Section 2: Application

This By-Law shall apply to all Town Departments, and to all positions in the service of the Town, whether full or part-time, temporary, seasonal, special or any other type of employment other than:

- (a) Those positions filled by popular election; provided, however, that the Administrator shall make recommendations prior to the annual Town Meeting relative to salaries for elective positions.
- (b) Those position which are covered by collective bargaining agreements.
- © Those positions under the direction and control of the School Committee.

- (d) Those positions under the direction and control of the Police Chief known as:
- i. Dispatcher, part-time
 - ii. Reserve/Intermittent Police Officer
 - iii. Administrative Assistant to Chief of Police
 - iv. Matrons

Police Custodian and clerical staff will continue to remain under the jurisdiction of the Personnel Board.

(Amended to add paragraph (d) at Annual Town Meeting May 19, 1992)

Section 3: Effective Date

This By-Law shall take effect and be in force from and after the earliest date allowed by law and shall repeal all other By-Laws in conflict herewith.

Section 4: The Personnel Board

- (a) There is a Board called the Personnel Board. The Board shall consist of three members appointed annually by the Board of Selectmen and shall receive no additional pay. The Plan Administrator shall serve ex-officio but shall have no vote on any matter coming before the Board.
- (b) Members of the Board shall not be Employees or hold any position in the Town.
- © If any member of the Board resigns or otherwise vacates office before the expiration of the term, a successor shall be appointed by the Board of Selectmen to serve for the balance of the year. All appointments shall be made within thirty days of the effective date of the vacancy or expiration.
- (d) The Board shall establish its own rules of procedure and shall keep a record of its official actions, which shall be kept open for public inspection and on file with the Town Clerk, and, subject to appropriation may make such expenditures as may be necessary for the performance of its duties.
- (e) Two members shall constitute a quorum for the transaction of the business of the Board and the affirmative vote of two members shall be necessary for any official act of the Board.

Section 5: Duties of the Board

- (a) **Personnel Administration.**
The Board shall prepare for approval by the Town, a Pay and Classification Schedule, the provisions of which, if approved, shall be incorporated into this By-Law as Appendices.

Until such time as a Schedule is adopted by the Town, any board or committee or department may request the Plan Administrator, with the approval of the Board, to study and advise on specific pay and classification matters.

All officers, boards, departments, committees and employees shall Co-operate with the Administrator and the Board in providing the information necessary for the proper preparation of a Schedule. The Board shall notify in

writing and then conduct a meeting with all Department Heads prior to formulation of the final Schedule. The Schedule shall operate within the meaning of Section 108A and 108C of Chapter 41 of the General Laws, as amended.

- (b) **Compliance Advice**
The Plan Administrator shall advise all departments, officers and officials as to compliance with applicable fair employment practice laws and other applicable state and federal laws and regulations.
- (c) **General Advice**
The Board shall advise the Town Departments regarding any matters pertaining to personnel.
- (d) The Board shall make general recommendations for each fiscal year to respective Boards and the Finance Committee by November 1 prior to such fiscal year.

Section 6: Administrative Authority

- (a) **Administration**
The Plan Administrator is hereby authorized to administer the provisions of the Plan, except for such duties as may be assigned by statute, by-law or negotiated contract to other town officers, boards, committees or commissioners.
- (b) **Plan Administrator**
The Plan Administrator shall make recommendations to the Board on all Personnel business matters.
- (c) **Procedural Rule and Regulations**
The Board is hereby authorized to issue and adopt uniform procedural rules and regulations, and to amend them from time to time, to further aid and assist in the performance of Plan Administrator's duties and responsibilities. Said rules and regulations shall be consistent and compatible with all other provisions of law and the provisions of this By-Law. Employees' shall be notified in writing seven (7) days prior to any changes taking effect.
- (d) **Administrative Orders**
The Administrator may from time to time issue, amend or revoke Orders for the purpose of giving effect to the provisions of this By-Law, and for the purpose of procedure, clarification and consistency in administrating and enforcing. Each such Order shall be numbered in sequence and the Administrator shall maintain in a file of all such Orders issued with the Town Clerk, which file shall be open to public inspection.

Section 7: Review of Plan

- (a) The Board shall, from time to time of its own motion but in any event at intervals of no more than three years, review the Plan. The Board shall keep informed as to pay rates and policies in other Massachusetts municipalities considered by the Board to be comparable to the Town so as to be able to recommend to the Town

any action, which the Board deems desirable to maintain a fair and equitable pay level.

- (b) The Board shall make an annual report to the Town, including recommendations on any matters, which the Administrator deems appropriate to be considered by the Town.
- (c) If at any time the Board is of the opinion that changes in this By-Law are desirable, he/she shall be responsible for taking the necessary action to put the changes into effect in accordance with the provisions governing amendments as set forth in Section 8.

Section 8: Amendments

- (a) This By-law may be amended by a majority vote at any Town Meeting. Where Amendments to this By-Law are proposed by persons or authorities other than the Board, the Board shall be given a copy of any proposed amendment at least thirty (30) days before the Town Meeting at which it is to be considered. The copy shall contain the names and addresses of the proponent(s).
- (b) The Board may, by order, establish a temporary classification for any position for which the nature and duties of which are temporary or subject to material change, such position will be in effect until the end of the fiscal year.
- (c) The Board may add a new classification to the Schedule, or reclassify an existing position.
- (d) The Board may authorize an entrance rate higher than the minimum rate for a position. The Administrator shall consider the recommendation of the Department Head or other Administrator Authority, supported by evidence of exceptional circumstances satisfactory to the Board. The Board may also make such other variances in compensation, as it considers necessary for the proper functioning of the services of the Town.
- (e) No action of the Board under the preceding subparagraph or under any other provision of the By-Law may be construed as authorization to spend money for salaries or wages for Employees in addition to that which has lawfully been appropriated at Town Meeting or which is otherwise lawfully available for that purpose.
- (f) Except as otherwise specifically provided in collective bargaining agreements, or by vote of the Town, amendments to this By-Law voted at an annual Town Meeting shall be effective as of July first of the calendar year in which voted.

Section 9: Personnel Records

- (a) The Town Accountant and the Department Heads shall keep such records of the employees as the Board may require. The Town Treasurer shall also check on matters covered by the Plan and shall bring any deviations from the Plan's provisions to the attention of the Plan Administrator. The Board shall keep such records of its own as it considers appropriate.

- (b) Except as otherwise provided by law, the Board shall have access to all facts, figures, records and other information related to Employees and the same may be furnished forthwith by any such Department whenever so requested by the Board in such form as the Board may require.

Section 10: Grievances

There is hereby established a grievance procedure available to any Employee who has successfully completed the applicable probationary period and who shall have a dispute with his or her Department Head, Appointing Authority or other supervisory body, arising out of the actions of such supervisor. This grievance procedure is also available to any Department Head, whose rights under this by-law have, in his or her opinion, been prejudiced in any way.

- (a) In the case of an Employee other than a Department Head: The Employee shall take up a grievance orally with the Department Head. If the Employee wishes to have the grievance reviewed, a grievance shall be submitted in writing to the Department Head. The Department head shall reply in writing within (7) days.
- (b) If the Department Head's response is not to the Employee's satisfaction, the Employee may send, within seven (7) days of the date of such response, a copy of the grievance to be given to the Plan Administrator. After receiving any grievance the Plan Administrator shall hold a hearing at which the relevant parties are present. The Plan Administrator's decision shall be rendered within seven (7) days of the hearing. If the Employee/Department Head is not satisfied with the finding of the Plan Administrator, the matter shall revert to the Personnel Board.
- (c) After receiving any grievance the Board shall hold a hearing within twenty (20) business days at which the relevant parties are present. The Board's decision shall be rendered within (20) business days of the hearing. If the Employee/Department Head is not satisfied with the finding of the Board, the matter shall revert to the Appointing Authority for a final decision within fourteen (14) days.
- (d) Any grievance procedure set forth in a collective bargaining agreement shall take precedence over and supersede the grievance procedure established by this by-law.

Section 12: Holidays

- (a) The following holidays shall be recognized by the Town on the day which they are legally observed in the Commonwealth of Massachusetts and these days employees shall be excused from all duty.

New Year's Day
Dr. Martin Luther King, Jr. Day
President's Day
Patriot's Day

Memorial Day
July 4th Day
Labor Day
Columbus Day
Veteran's Day
Thanksgiving Day
Day after Thanksgiving
Christmas

The above holiday schedule may be altered by the Board of Selectmen at the beginning of the calendar year provided, that an equivalent number of paid holidays is granted.

- (b) Regular Permanent Part-Time and Regular Permanent Full-Time Employees will receive holiday compensation at a rate equivalent to one-fifth (1/5) of their regularly scheduled hours per week or, compensation for normally scheduled hours that fall on a recognized holiday. Total weekly compensation, including holiday compensation, will not exceed the employees' regular weekly compensation. (Amended STM – 9/22/92)
- (c) If an employee is required to work on a holiday, the employee shall receive, in addition to the regular holiday pay, an amount equal to one and one half (1 1/2) times the regular rate of pay for hours worked.
- (d) Any employee on approved vacation or sick leave shall not be charged for leave time.

Section 13: Maternity Leave

Employees, upon request, shall be granted up to eight work-weeks of maternity leave in accordance with Massachusetts Law. (G.L. c.149, section 105D and G.L. c.151B section 11A)

Section 14: Sick Leave

- (a) Permanent Full-time employees shall earn one (1) day of sick leave with pay for each calendar month of service not to exceed twelve (12) days per fiscal year.
- (b) Permanent Part-time employees shall earn one (1) day of sick leave which is one-fifth (1/5) of the average number of hours actually worked per week during the preceding calendar year or, in the case of a new employee, during the period employed by the Town.
- (c) If employed prior to the 16th of the month, sick leave shall accrue from the first of the month. If employed on or after the 16th of the month, sick leave shall accrue from the end of the succeeding month.
- (d) New Permanent employees must satisfactorily complete six (6) months of continuous service prior to qualifying for use of sick leave but sick leave shall accrue during the probationary period.

- (e) Accruals will be earned as of the last working day of each month and will be posted accordingly. No accrual will be recorded for a portion of month upon termination of employment.
- (f) Unused sick leave will accumulate from year to year to a maximum of (90) days. The Town shall annually, during the month of July, notify all employees of the total amount of the employee's accrued sick leave as of June 30 of the previous year.
- (g) Evidence of disability may be required by the Plan Administrator from the employee for any sick leave greater than three (3) days. If the cause of the sick leave is not substantiated to the satisfaction of the Plan Administrator, such absence will not be paid as sick leave, and absence will be considered unauthorized leave.
- (h) Upon termination, all accumulated sick leave will be forfeited.

Section 15: Vacation

Upon completion of six (6) months of continuous service, vacation time may be used at a rate which is based on the monthly rate of the annual rate. The employee shall be granted vacation according to the following table:

<u>Length of Service</u>	<u>Amount of Vacation</u>
Less than 1 year	5/6 day per month
1 year but less than 5	10 days per year
5 years but less than 10	15 days per year
10 years	20 days per year

- (a) Part-Time Employees shall earn vacation according to the above table in the following prorated manner: One (1) day of vacation shall mean one-fifth (1/5) of the average number hours actually worked per week during the preceding year, or in the case of a new hire, during the period of time employed by the Town.
- (b) If employed prior to the 16th of the month, vacation leave shall accrue from the first of the month. If employed on or after the 16th of the month, vacation leave shall accrue from the end of the succeeding month.
- (c) Vacation time can be cumulative from year to year. Vacation time not taken in the fiscal year immediately following the fiscal year in which it was earned shall be forfeited. The Town shall annually, during the month of July, notify all employees of the total amount of the employee's accrued vacation leave as of June 30 of the previous year.
- (d) All employees eligible for vacation days shall take their vacation leave in accordance with a schedule mutually agreed upon by the employee and the supervisor. Vacation days shall only be taken in whole day increments.

Resignation of Employment (adopted October 18, 1990)

Order: 1

Employees must give written notice to their supervisor prior to termination. Failure to provide written notice will result in forfeiture of accrued vacation time upon termination.

Any employee who does not report to work for three consecutive working days without notification to their supervisor, will be considered a voluntary resignation without notice.

Employees in appointed positions: If the employee is not reappointed at the end of his/her term, he/she will receive all unused accrued vacation time upon termination.

Section 16: Funeral Leave

Employees shall be eligible for up to three (3) day's consecutive leave with pay for the purpose of making arrangements and attending the funeral of members of their immediate family. The term "Immediate Family" as used in this paragraph shall mean the following: parents and parents in-law, sister, brother, sister in-law, brother in-law, spouse, child, and grandparents, of the employee or the employee's spouse.

Section 15: Personal Leave

Employees shall be eligible for two (2) days of paid personal leave per year for the purpose of attending the personal business which unavoidably conflicts with the employee's work schedule. This time is to be charged to sick leave.

Section 16: Health, Life and Accidental Death Group Insurance

- (a) The Town shall, pursuant to Chapter 32B of the Massachusetts General Laws, provide contributory group health, life and accidental death insurance to Regular Permanent Full-Time and Regular Permanent Part-time employees. The cost of the group insurance is paid on 50/50 basis by the Town and the participating employee. Participation in the group insurance plan is optional.
- (b) Upon termination, the Town's health insurance policy, in accordance with the Consolidated Omnibus Budget Reconciliation Act (COBRA), is discontinued.

Section 17: Military Leave

An Employee, upon request, shall be granted military leave in accordance with state and federal law.

Section 18: Court Time

An Employee called to Jury Duty or to Testify as a witness as a result of employment in the Town or as a result of the performance of official Town duties or on behalf of the Town, shall be paid in an amount equal to the difference between the amount received from the Court, other than for travel allowances and the pay normally received from the Town.

Section 19: Annual Evaluations

The Board shall require that each Employee shall be given a written annual evaluation by the Department Head or supervising Administrative Authority. This evaluation shall be in a form as the Board may prescribe and it shall be filed with the Board after it has been provided to and discussed with the Employee.

Section 20: Hiring Procedure

The following procedure shall be used in filling all regular full-time and regular part-time positions.

- (a) A job description agreed to by both the Appointing Authority and the Personnel Board must be completed prior to the announcement of the job opening.
- (b) The hiring rate and the annual rate for the job must be in accordance with the Pay and Classification Schedule or be developed with and agreed to by the Town Administrator and the Appointing Authority prior to the announcement of the job opening.
 1. The job opening, approved by the Plan Administrator, must be posted internally at least seven calendar days prior to the job being filled.
 2. If there are no applicants, then the job must be announced at least once in the local paper.
 3. The job opening announcement shall include:
 - Job Title
 - Rate of Pay
 - Summary statement of duties
 - Direction on how applications may be filed
 - Application Deadline
 - Minimum of five (5) days after notice publication for the deadline for filing application.
 - The following statements:
 - "Applications will be received no later than ____ by the Department Head."
 - "Equal Opportunity Employer"
- (c) **Employee Physical Examinations**

Every Employee, regular, supplemental, or seasonal, and any other Employee as the Town Administrator may designate, shall be required, as a condition of their employment, prior to the effective date of their employment, to have a physical examination by a physician appointed for such purpose by the Board of Selectmen. The cost of the physical examinations shall be borne by the Town and reports from the examining physician shall be filed with the Board and with the hiring Department or Administrative Authority.

Section 21: Employees and the Board

All Employees shall have the right to request an appointment to confer with the Board on any matter which is covered by the Plan.

Section 22: Severance Clause

The provisions of this By-Law are hereby declared to be severable, and if any provision and the application of any such provision to any person or under any circumstances shall be held to be invalid, illegal or unconstitutional, such invalidity, illegality or unconstitutionality shall not be construed to effect the validity, legality or constitutionality of any of the remaining provisions or of that provision with respect to persons or circumstances other than those as to which the offending provision is held to be invalid, illegal or unconstitutional.

ADMINISTRATOR ORDER #1

TOWN OF TYNGSBOROUGH

Adopted October 18, 1990

Resignation of Employment

Background:

Reference to Section 15 of the Personnel By-Laws.

Order:

Employees must give written notice to their supervisor prior to termination. Failure to provide written notice will result in forfeiture of accrued vacation time upon termination.

Any employee who does not report to work for three consecutive working days without notification to their supervisor, will be considered a voluntary resignation without notice.

Employees in appointed positions: If the employee is not re-appointed at the end of her/her term, he/she will receive all unused accrued vacation time upon termination.

DRAFT

PERSONNEL BOARD

**Submits
ADMINISTRATIVE ORDER #2
Regarding:
PARENTAL LEAVE**

BACKGROUND: The Board of Selectman asked the Board to review and prepare a policy regarding Maternity Leave.

REFERENCE: Massachusetts General Laws Chapter 151B, Section 4 (1) and Chapter 149, Section 105D states that every full time female employee is now entitled as a matter of law to at least eight (8) weeks maternity leave if she complies with the stated conditions. Please refer to the attached for details. This relates to the Personnel By-Law Section 13, as adopted.

Taking the law into consideration the Board felt it was appropriate to expand its policy to both parents and to include a provision for adoption.

The Personnel Board respectfully submits the following:

Permanent full time employees may be granted a period not to exceed eight (8) weeks parental leave following the birth or adoption of a new family member. During this unpaid leave of absence, vacation and sick time will not be accrued and insurance coverage normally paid for by the Town will be the responsibility of the employee. If an employee accepts other employment while on parental leave from the Town this will be considered a voluntary resignation.

Every effort will be made to place the employee in their former position or equivalent depending on the availability of such positions.

The employee requesting parental leave should make the request in writing at least two (2) weeks before the anticipated leave.

To: All Employees
cc: Town clerk

From: Personnel Board

Date: 2/21/92

Administrative Order # 3
Personnel Board
Adopted February 20, 1992

Background:

This order clarifies the definition of "day." The Town has many positions that work less than 40 hours. It is necessary to define "day" in order that all benefits may be granted.

In accordance with Section 6, paragraph d, Administrative Orders, the following order is issued:

ORDER:

An Employee who works 20 or more hours per week and who is not scheduled to work on a scheduled holiday is to receive Holiday comparable time. The time is to be calculated according to the following methods.

An hourly employee that works less than 40 hours per week but 20 or more per week shall have "a day" defined as one-fifth (1/5) of the average number of hours actually worked per week during the preceding calendar year or, in the case of a new employee, during the period employed by the Town.

A Salaried employee that works less than 40 hours but 20 or more per week shall have "a day" defined as one-fifth of the scheduled work week as defined in Appendix A - Classified Positions of the Personnel By-Law.

Example:

Employee works 25 hours per week.

Benefits would be granted in the following manner:

Holiday Time:	5	hours
Sick Leave monthly:	5	hours
Two weeks annual Vacation:	50	hours
Monthly accrual:	2.08	hours

(admin03)

Patricia