

Chapter 59

PERSONNEL

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[HISTORY: Adopted by the Special Town Meeting of the Town of Easton 11-14-1988 by Art. 4 (Art. 14 of the 1922 Bylaws). Amendments noted where applicable.]

GENERAL REFERENCES

Contracts and purchasing — See Ch. 11.
Sale of personal property — See Ch. 56.

Records and reports — See Ch. 65.

**ARTICLE I
General Provisions**

§ 59-1. Purpose.

It is the purpose of this chapter to provide to department heads, supervisory personnel and employees the policies and procedures for assuring maintenance of an equitable personnel management system in the Town. The policies and procedures for personnel administration set forth herein have, as their purpose, to promote the efficiency and economy of government, to promote the morale and well-being of Town employees and to promote equal employment opportunity for all candidates.

§ 59-2. Principles.

The personnel policies of the Town are based on the following principles:

- A. Recruiting, selecting and advancing employees on the basis of their relative abilities, knowledge and skills.
- B. Providing equitable and adequate compensation.
- C. Training employees as needed to assure high-quality performance and to promote career development.
- D. Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance and separating employees whose inadequate performance cannot be corrected.

- E. Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, age, sex, creed, handicap or any other nonmerit factor, except where such factor is a bona fide occupational requirement, and with proper regard for their privacy and constitutional rights as citizens, and prohibiting discrimination against any person on the basis of such nonmerit factors.
- F. Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

§ 59-3. Equal employment opportunity.

Discrimination against any person in recruitment, examination, appointment, training, promotion, retention or any other personnel action because of political affiliation, race, creed, color, national origin, age, sex, handicap or other nonmerit factor is prohibited, except where such factor is a bona fide occupational requirement.

§ 59-4. Applicability; interpretation.

The personnel policies contained in this chapter shall apply to all officers and employees, except exempt officials, as defined in Article III of this chapter. The policies are not intended to be all-inclusive. Final discretion as to interpretation and as to the appropriate course of action concerning a personnel matter shall rest with the Town Administrator.

§ 59-5. Conflict with other laws or agreements.

- A. State Civil Service Law and rules. Nothing contained in these personnel policies shall be construed to conflict with MGL c. 31 where civil service applies.
- B. Other state statutes. Nothing in this chapter shall be construed to conflict with any special law enacted for the Town of Easton or any permissive statute accepted by the Town of Easton or any provision of the State Constitution. To the extent that any apparent conflict exists, it shall be determined in favor of the higher state statute or provision of the State Constitution.
- C. In the event that a specific provision of this chapter should conflict with a provision of a collective bargaining agreement, adopted in conformance with MGL c. 150E, the provision of the particular collective bargaining agreement shall prevail.
- D. Home Rule Charter. Nothing in this chapter shall be construed to conflict with any provision of the Home Rule Charter of the Town of Easton. To the extent that any apparent conflict exists, it shall be determined in favor of the Charter.

ARTICLE II
Administration

§ 59-6. Personnel Director.

- A. The Town Administrator or designee shall be Personnel Director for the Town of Easton and will impartially and equitably oversee all personnel activities of Town government. He or she may delegate to another or others personnel functions entailed in administering this chapter but shall retain personal responsibility for all such delegated acts.
- B. The Personnel Director shall:
- (1) Prepare and recommend to the Board of Selectmen for its approval a personnel plan and revisions thereto and direct the continuous administration of said plan, in accordance with the provisions of the Town Charter, § C4-2(m).
 - (2) Review for budgetary purposes the annual salaries and associated costs.
 - (3) Direct the recruitment, testing, selection and hiring of employees.
 - (4) Prepare and administer tests, whenever practicable, for all original appointments and promotions in the Town service in conjunction with the appropriate department head.
 - (5) Enforce policies and procedures for personnel administration.
 - (6) Supervise, develop and maintain personnel systems, forms, procedures and methods of recordkeeping.
 - (7) Maintain a roster of all employees in the Town service.
 - (8) Certify, in writing, appointments, promotions, demotions, discipline and other actions.
 - (9) Direct employee orientation, training, counseling and career development in conjunction with department heads.
 - (10) Administrate these personnel policies, including the handling of grievances.
 - (11) Evaluate performance evaluation reviews completed by department heads.
 - (12) Perform other lawful acts which are considered necessary or desirable to carry out the purpose of the central personnel system and the provisions of these personnel policies.
 - (13) Ensure that all employees certify, in writing, that they have received this chapter and all other labor contracts, policies, procedures and rules which affect them.

§ 59-7. Human Resource Board. [Added 1-12-2004 STM, Art. 19]

A. Composition of Board:

- (1) The Town shall have a Human Resource Board (hereinafter "HRB") consisting of five residents appointed by the Moderator.
- (2) No member shall be a member of another board or committee or an officer, official or paid employee of the Town.

- (3) At least two members shall have education and/or experience in human resources or labor relations.
- (4) The term of office shall be three years, so arranged such that the term of at least one member shall expire each year. The initial membership term shall commence upon the approval by Easton voters at the next annual election of an amendment to Section 4-2(m) of the Home Rule Charter.¹
- (5) Any vacancy in the HRB shall be filled by the Moderator, and any person appointed to fill a vacancy shall hold office for the unexpired term of the person whom s/he succeeds.
- (6) The HRB shall annually elect its own Chair and Vice-Chair. In the absence of the Chair, the Vice-Chair shall act as Chair.
- (7) The HRB members shall serve without compensation.
- (8) The HRB shall hold meetings at least once a month or at such times as it may determine.

B. Duties: [Amended 6-12-2006 ATM by Art. 51]

- (1) The HRB shall cause to be created a Classification Plan and Salary Plan. They shall prepare a draft request for proposals from consultants with input and advice from the Personnel Director, assist in the review of proposals, make a recommendation to the Board of Selectmen regarding contracting with a consultant to create these plans, and shall approve of the methodology used by the consultant in the creation of the plans. They shall submit their recommendations for proposals to the Town Administrator or the Town procurement officer. In the alternative, if a consultant is not hired, the HRB shall create the Classification and Salary Plans.
- (2) The HRB shall make recommendations to the Personnel Director as to the implementation and administration of the Classification and Salary Plans (see Subsections C and D below), and shall recommend policies and procedures consistent with those plans, as it deems necessary for the administration thereof.
- (3) The HRB shall have access to the payroll/salary records of all Town employees maintained by the Town.
- (4) The HRB shall from time to time review the Salary Schedules of the Town employees. It shall keep informed as to pay rates and policies outside the service of the Town and shall make recommendations to the Personnel Director necessary to maintain a fair and equitable pay level.
- (5) As frequently as deemed necessary or desirable by the HRB, but not less frequently than every five years, the HRB shall direct, assist with and/or conduct salary surveys regarding collection and analysis of data for comparison between Town employees and comparable employees outside the service of the Town. Based on such surveys, the HRB shall recommend changes or adjustments to the Classification and Salary Plans to the Personnel Director.

¹ Editor's Note: Said amendment was approved by voters 1-12-2004 STM, Art. 20.

- (6) The HRB may recommend to the Personnel Director an entrance rate higher than the minimum rate for a position, and such other variances in the Salary Plan as it may deem necessary for the proper functioning of the services of the Town, upon recommendation of a Department Head, supported by evidence in writing of special reasons and exceptional circumstances satisfactory to the HRB.
- (7) To the extent possible, the HRB shall assist the Personnel Director in advising all boards, officers and officials regarding compliance with applicable fair employment practice.
- (8) The HRB shall present to the Board of Selectmen, on an annual basis, a report of the salary plan containing a summary of the plan, salary ranges and any adjustments to ranges made that year, summary of any wage survey done, summary of performance based increases given, recommendation of guidelines to be used for the pay plan for the next fiscal year, discussion of any off cycle adjustments recommended and reasons for adjustment. The report shall include an analysis of the Salary Plan for the year including: percentage impact of raises on the budget, average percentage of increases, and distribution of employees falling within various performance levels.
- (9) The HRB shall undertake a review of all municipal collective bargaining agreements not subject to the authority of the Easton School Department and provide an analysis to the Board of Selectmen of the comparability of the agreements with Town employees and comparable employees outside the service of the Town.
- (10) Nothing in this article, or the Salary Plan, shall be construed to conflict with Chapter 31 of the General Laws or Easton's Home Rule Charter.

C. Classification plan:

- (1) A Classification Plan is to be created by the HRB.
- (2) The positions of all officers and employees of the Town (whether full-time, part-time, seasonal, casual, special, Civil Service, or others) other than those positions filled by popular election and those under the direction and control of the School Committee, shall be classified by titles and groups listed in the Classification Plan.
- (3) The HRB shall maintain written descriptions of the jobs or positions in the Classification Plan, describing the essential characteristics, requirements and general duties of the jobs. The descriptions shall not be interpreted as complete or limiting definitions of any job, and employees shall continue in the future, as in the past, to perform any duties assigned by department heads, supervisors, or other authority.
- (4) The HRB, from time to time, shall review the duties of all positions subject to the Classification Plan. Such reviews shall be made at such intervals as the HRB deems necessary and, to the extent which the HRB considers practicable, shall include all classes.
- (5) The HRB may recommend to the Personnel Director a new position to the Classification Plan or reclassification of an existing position.
- (6) The HRB shall transmit the Classification Plan to the Town Administrator who shall then submit it to the Board of Selectmen for approval pursuant to § C4-2(m) of the

Town Charter. The Classification Plan shall be implemented and administered by the Town Administrator.

D. Salary Plan.

- (1) A Salary Plan is to be created by the HRB. Such Plan shall provide minimum and maximum salaries for the groups and positions in the Classification Plan. The salary range of a group shall be the salary range for all positions classified in the group.
- (2) The HRB shall transmit the Salary Plan to the Town Administrator who shall then submit it to the Board of Selectmen for approval pursuant to § C4-2(m) of the Town Charter. The Salary Plan shall be implemented and administered by the Town Administrator.

§ 59-8. Department heads.

Department heads shall have responsibility to supervise effectively their employees, to report in an approved manner upon the efficiency and performance of their subordinates, to notify the Town Administrator of changes in duties of their employees in order that the classification plan will be maintained; and to recommend salary increases. Department heads shall recommend to the Town Administrator, as necessary, desirable changes in the personnel policies and procedures to improve administration of the personnel system. Department heads may establish such rules deemed necessary for the efficient and orderly administration of the department. Such rules must be on file in the office of the Town Administrator before they become effective and must be consistent with these personnel policies and procedures. Copies of department rules must be made available in the office of each department head for use by the employees.

§ 59-9. Employees.

It shall be the responsibility of all employees to acquaint themselves thoroughly with the material in these personnel policies and subsequent revisions. Employees are also encouraged to submit suggestions for changes and improvements in personnel policies and procedures for improvement of the personnel administration.

ARTICLE III

Definitions

§ 59-10. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ALLOCATION — The assignment of an individual position to an appropriate class on the basis of kind of work, duties and the responsibilities of the position.

APPOINTING AUTHORITY — The person(s) who has the authority, by statute or Town Charter, to appoint employees and remove employees from their position for just cause.

APPOINTMENT — The placement of a person in a position.

CLASS — A position or group of positions which are sufficiently similar with respect to duties, responsibilities and authority that they may properly be designated by the title and equitably compensated from the same pay range under substantially the same employment conditions.

CLASS SPECIFICATION — The written description of a class, including the title, a statement of the nature of the work, examples of duties and responsibilities and the minimum qualification requirements that are necessary for the satisfactory performance of the duties of the class.

CLASS TITLE — The title assigned to any particular class and used for reference to that class.

COMPENSATION — The salary or wages earned by any employee by reason of service in the position, but does not include allowance for expenses authorized and incurred as incidents to employment.

DEMOTION — The movement of an employee from a position in one class to a position in another class with a lower maximum pay rate.

DEPARTMENT HEAD — Any employee who by virtue of his or her work responsibilities is the primary administrative officer in his or her department and who supervises one or more employees, as indicated on the below list. The Town Administrator, by administrative policy, shall be responsible for annually updating the list of all department heads. **[Amended 6-12-2006 ATM by Art. 51]**

Collector/Treasurer
Director of Public Works
Fire Chief
Police Chief
Town Accountant

(Cont'd on page 5909)

DISCHARGE or DISMISSAL — The permanent, involuntary termination of a person from Town service.

DISCIPLINARY ACTION — An oral warning, written reprimand, suspension, demotion or dismissal taken for cause by the appropriate authority.

EMPLOYEE — A person occupying an appointive position, or an appointive person who is on authorized leave of absence, who are not exempt officials.²

EMPLOYMENT DATE — The date on which an employee commences performance of duties and is placed on the payroll.

EXAMINATION — All of the tests of fitness taken together that are applied to determine the fitness of applicants for positions of any class.

EXEMPT OFFICIALS — Elected officials, Town Counsel, persons under the control of the School Committee, members of boards, commissions and committees and all employees whose wages, benefits and working conditions are governed by a collective bargaining agreement.

FULL-TIME EMPLOYEE — An employee who is in an approved, full-time position in Town service which is funded for an entire year.

GRIEVANCE — A misunderstanding or disagreement between an employee and a supervisor that relates to working conditions and relationships or to policies, rules and regulations.

HOURLY EMPLOYEES — Employees who are covered by the minimum wage and hour provisions of the Fair Labor Standards Act.

INCUMBENT — The current occupant of a position.

LAYOFF — The separation of an employee because of lack of work or funds or other reasons not related to fault, delinquency or misconduct on the part of the employee.

LEAVE — An authorized absence from regularly scheduled work hours which has been approved by proper authority.³

PART-TIME EMPLOYEE — An employee whose normal workweek does not exceed 35 hours, or whose average workweek does not exceed 35 hours, and which is funded for an entire year.

PAY PLAN — A schedule of compensation for all classes in the classification plan, including any successive pay rate steps established for each class. All positions allocated to one class will be paid according to the salary range established for that class.

PERFORMANCE-BASED INCREASE — A percentage increase in pay for an employee who meets the eligibility conditions specified in these policies. [Added 1-12-2004 STM, Art. 19]

² Editor's Note: So in original. Should be "who is not an exempt official."

³ Editor's Note: The definition of "merit increase," which immediately followed this definition, was repealed 1-12-2004 STM, Art. 19. See now "performance-based increase."

shall meet with the employee, if any, as well as the supervisor and/or department head to review the class specification prior to final adoption.

- B. Job evaluation system. In allocating classes of positions to appropriate classification levels, the Personnel Director will utilize an objective job evaluation system, such as: a point factor plan, to address the complexity and level of responsibility of each class of positions in allocating proper classification/grade levels for all classes covered in the classification plan. The Personnel Director shall meet with and compare his or her classification to that of the employee's supervisor and/or department head and further shall give equal weight to each classification in determining a final classification.
- C. Classification review. The HRB shall review the duties of all positions subject to the Classification Plan. Such reviews shall be made at such intervals as the HRB deems necessary and, to the extent which the HRB considers practicable, shall include all classes of positions. The HRB may recommend to the Personnel Director a new position or reclassification of an existing position. The Personnel Director shall annually review all classes of positions in Town service to the end that all classes are reviewed on a three-year cycle. Incumbent employees, supervisors and department heads may request, in any given year, that a specific class or classes be reviewed for applicability to current job conditions and situations and, to the extent possible, the Personnel Director will assign priority to such requests. Formal requests for reclassification shall receive priority consideration. There shall be only one reclassification in any twelve-month period for any employee, except in unusual circumstances. In conducting these reviews, the Personnel Director shall meet and consult with supervisors and department heads in the same manner as detailed in Subsection B above.
- D. Action as a result of classification review. If, as a result of a general classification review or as a result of a request for reclassification, the Personnel Director determines that a position or class of positions has changed sufficiently, the position or class will be reclassified, and personnel action shall be initiated to reflect the change as soon as funding is available. If the Personnel Director finds that reclassification is not justifiable after consulting with supervisors and department heads as outlined in Subsections A through C above, the Director will notify the incumbent(s) in writing, and no similar request for reclassification may be submitted within a period of six months. Reclassification may result in a position or class of positions being allocated to the same classification/grade level, or reallocated to a higher or lower level. When reclassification results in reallocation to a lower level, an incumbent shall not lose current pay and benefits with the exception of longevity pay and pay plan annual increase. This save-pay provision shall not apply to any new appointee or replacement to said position or class. [Amended 1-12-2004 STM, Art. 19]

§ 59-14. Compensation following change in class title.

No employee shall be paid under a change in class title until proper authorization on an appropriate form is signed by the Town Administrator.

ARTICLE V
Pay Plan

§ 59-15. Development. [Amended 1-12-2004 STM, Art. 19; 6-12-2006 ATM by Art. 51]

The HRB shall be responsible for the development of a uniform and equitable pay plan, which shall consist of, for each class of positions, minimum and maximum salaries for the groups and positions in the Classification Plan. The salary range of a group shall be the salary range for all positions classified in the group.

§ 59-16. Maintenance. [Amended 6-12-2006 ATM by Art. 51]

On an annual basis, the HRB shall perform an analysis of the Pay Plan and recommend adjustments accordingly. Such analysis shall include but not be limited to a review of increases negotiated with Town labor unions, increases provided in salary plans for comparative positions in comparative jurisdictions, and the increase in the cost of wages as measured by the U.S. Department of Labor's Employment Cost Index (ECI) for State and Local Government. The recommended Pay Plan for the upcoming fiscal year shall be submitted to the Personnel Director by December 15 of each year; the Personnel Director shall transmit the Plan to the Board of Selectmen for approval in accordance with the Town Charter § C4-2(m).

§ 59-17. Administration. [Amended 1-12-2004 STM, Art. 19]

- A. Appointment rates. An employee appointed to a position should normally be compensated at a minimum rate of pay assigned to the class to which the position is allocated. However, original employment at a salary above the minimum rate may be made upon written certification by the Town Administrator that such action is justified by exceptional qualifications of the applicant or by lack of qualified applicants available at the minimum rate.
- B. Pay plan salary review. The pay plan shall be reviewed by the Human Resource Board as frequently as deemed necessary, but not less frequently than every five years.
- C. Performance-based increases. Salary increases within an established range are not automatic but require the attainment of a sufficiently high score on an annual performance review. The eligibility date for a performance-based increase shall be on July 1 of each year, provided that the employee has worked at least three full months prior to that date. An employee who reached the maximum of a particular salary range may not receive further increases unless the position is regraded. No employee shall be given any increase that would cause them to be paid above their grade range. An employee on leave without pay shall not count such leave toward service for compensation purposes.
 - (1) The following factors shall not affect eligibility for a performance-based salary increase:
 - (a) Overall pay adjustment resulting from a pay survey.
 - (b) Transfer within class or within range.

- (c) Military leave without pay necessitated by a draft or reserve call-up because of a declared emergency up to 90 calendar days.
- (d) A period of paid leave.
- (e) Reclassification to a class of the same pay range or lower.
- (2) The denial of a performance-based salary increase does not necessarily connote less than satisfactory service. To be eligible for a performance-based salary increase, it is expected that an employee is performing at a higher than average level.
- D. Performance evaluation. For positions covered by formal performance evaluation, see Article VIII for appropriate policy and procedure.
- E. Promotion. Upon promotion, the employee's salary shall be set within the range of the higher class at a point which provides an increase in the employee's previous salary, except that the new salary shall not be more than the maximum rate of the higher classification level.
- F. Transfer. When an employee is transferred laterally from a position in one class to a position in another class at the same pay rate, or is transferred with no change in class, she or he shall continue to be paid at the same rate.
- G. Reallocation of position to a class in lower pay range. When job evaluation indicates that a position is reallocated to a class in a lower pay range, the current pay of an incumbent is not changed, and said incumbent or incumbents will continue to be eligible for increments up to the maximum of a lower pay range and be eligible for any general pay increases which may be established for all positions in the group affected.

§ 59-18. Hours of work.

- A. The following hours of work shall apply to employees in each category:

Category	Hours Per Week
Salaried employee	40
Hourly employee	
Clerical	35
Others	40 ¹
Council on Aging van driver	40 ²
[Added 5-7-1990 ATM by Art. 7]	
Part-time employee	Subject to control of department head

NOTES:

¹Schedule is consistent with union employees supervised, or that work in the same department/division.

²Includes a one-half-hour lunch break.

- B. It is recognized that the greater work responsibilities of salaried employees may cause them to frequently work greater than 40 hours per week. It is also recognized that salaried employees may use compensatory time and have some work schedule flexibility, both subject to approval of the Town Administrator.
- C. It is also recognized that the salaried employee's forty-hour workweek includes a one-hour paid lunch and coffee breaks to be taken at the discretion of the employee.
- D. The workweek of the hourly clerical employees does not include a one-hour unpaid lunch break. It does, however, include a fifteen-minute morning coffee break.

§ 59-19. Overtime.

- A. With the exception of salaried employees, all other nonunion employees shall receive overtime pay as follows:
 - (1) For those working a thirty-five-hour workweek, overtime in excess of seven hours in a single workday or in excess of 35 hours in a workweek shall be paid at the overtime rate.
 - (2) For those hourly employees working a forty-hour workweek, overtime in excess of eight hours in a single workday or in excess of 40 hours in a workweek shall be paid at the overtime rate.
- B. Salaried employees are eligible for compensatory time off for hours worked in excess of normal workweek hours, when so approved. Approval for all department heads shall be granted by the Town Administrator, and for all others approval shall be granted by the department head concerned.

§ 59-20. Longevity.² [Added 6-12-2006 ATM by Art. 51]

Employees shall receive annual longevity payments for their years of continuous service for the Town of Easton, in accordance with the following schedule:

Upon completion of five years – \$350
Upon completion of 10 years – \$400
Upon completion of 15 years – \$450
Upon completion of 20 years – \$500
Upon completion of 25 years – \$550
Upon completion of 30 years – \$600
Upon completion of 35 years – \$650

² Editor's Note: Former § 59-19, Longevity pay, was repealed 1-12-2004 STM, Art. 19, effective 7-1-2004.

§ 59-21. Actual hours worked; limitations.

For the purpose of this chapter, actual hours worked shall include all time an employee is required to be on duty. It is the intent of this chapter that the supervisor bear the responsibility for notifying the employee of any limitation when work hours exceed normal work hours.

ARTICLE VI
Recruitment, Selection and Appointment

§ 59-22. Policy.

To assure a high quality of service to the public, selection will be from among the most competent applicants. Selection and appointment to all positions will be based solely upon job-related requirements and the applicant's demonstration that he or she possesses the skills, knowledge, abilities and other characteristics necessary for successful job performance.

§ 59-23. Recruitment procedures.

- A. Defining the job. When a vacancy occurs, the appointing authority will review the functions, duties, responsibilities and minimum qualifications of the position to ascertain whether the job description is still accurate or the job needs to be redefined. If it is determined that a new job description is necessary or that changes to the existing job description are required, the appointing authority will consult with the Personnel Director, who will be responsible for preparing the new/amended job description.
- B. Advertising the vacancy. The Town Administrator or designee will be responsible for advising the public of the vacancy. The vacancy will be publicized in such manner as to assure that all interested and qualified individuals, including current employees, are informed of the position title, duties, responsibilities and salary range; minimum and special qualifications for the job; the time, place and manner of making application; and any other information which may be useful to applicants. All advertisements shall comply with Massachusetts Commission Against Discrimination (MCAD) affirmative action requirements.

§ 59-24. Applications.

All candidates applying for employment must secure and file an official application form. Deliberate false or misleading statements in the application and deception in attempting to secure employment shall be grounds for rejecting an applicant.

§ 59-25. Selection procedures.

- A. Determining examination devices. The Town Administrator or designee shall determine which examining device or combination of devices will be used to evaluate the relative fitness of each candidate for the position.

- (1) The devices selected shall relate to the duties and responsibilities of the position and shall fairly appraise and determine the merit, fitness, ability and qualifications of the applicants.
 - (2) A variety of devices may be employed, including but not limited to: assessment of training, education and work experience; written, oral and performance tests; structured interviews; and reference checks. Each device utilized will be administered to ensure equity and fairness.
- B. The selection process. The selection process will result in a ranking of candidates in order of their relative ability to perform the job.
 - C. Interview and selection. The appointing authority or designee will interview all qualified applicants, and will notify all candidates in writing and in a timely manner, of their selection or nonselection for the vacant position.
 - D. Documenting the selection process. A record of the recruiting, examining and appointing procedures used will be retained after the vacancy is filled. This record will include: the job description, vacancy announcements, the applications of all who applied or their names and addresses and the appointing authority's reasons for selection of a candidate.
 - E. Massachusetts Commission Against Discrimination (MCAD) reporting. The Personnel Director will be responsible for all MCAD reporting.

§ 59-26. Physical examination. [Amended 6-12-2006 ATM by Art. 51]

A preemployment physical examination shall be required for all permanent and seasonal employees prior to appointment. A qualified physician selected by the Town Administrator shall make his or her report on a form provided by the Town. Any such examination shall be at the expense of the Town and shall be reviewed by the appointing authority prior to final determination of the applicant's qualifications for appointment. A psychological examination may also be required.

**ARTICLE VII
Training and Education**

§ 59-27. Policy.

It is the joint responsibility of the supervisors, department heads and Town Administrator to foster and promote employee training and education programs for the purpose of improving the quality of service rendered to citizens and aiding employees to equip themselves for advancement in Town service.

§ 59-28. Educational incentive program.

Full-time employees shall be entitled to participate in an educational incentive program. Any employee may request reimbursement for a course at an accredited school provided the course is job-related, approved in advance, in writing, by the department head and Town

Administrator, and evidence of a passing grade is submitted to the Town Administrator upon course completion.

§ 59-29. Training for certification or license.

Where a full-time employee is required to attend a course or to receive instruction in order to maintain a license or registration which is an integral part of the job description and which is a requirement of the continuation of employment in that position, the Town shall reimburse the employee for successful completion of the course or instruction, with the exception of a Class III driver's license.

§ 59-30. Other training.

Department heads and supervisors may perceive other training needs, and are obliged to discuss the same with the Town Administrator as a prelude to securing Town Administrator approval of such other training.

**ARTICLE VIII
Performance Evaluation**

§ 59-31. Purpose.

The Town recognizes the need for a performance evaluation system to:

- A. Assess fairly and accurately an employee's strengths, weaknesses and potential for growth.
- B. Encourage and guide the employee's development of his or her special skills and work interests.
- C. Assure the granting of increases and consideration for more complex work based on performance. [Amended 1-12-2004 STM, Art. 19]
- D. Provide a method of improving operational programs through employee input.
- E. Identify training needs.

§ 59-32. Procedure.

The Town Administrator shall be responsible for the establishment and maintenance of the employee performance evaluation system. Employee evaluation is the continuing day-to-day responsibility of the supervisor. Annually and prior to effecting a performance increase, the supervisor will make a written evaluation of the employee's performance. [Amended 1-12-2004 STM, Art. 19]

- A. Six-month informal review. In approximately the sixth month of each fiscal year, each employee's immediate supervisor will conduct an informal review of the employee's work performance for the first half of the fiscal year.

- B. Annual evaluation. In the 11th month of each fiscal year, each employee's supervisor shall conduct a formal, written evaluation of the employee's work performance for the entire fiscal year. The annual evaluation shall include a review of the employee's annual goals and objectives and the extent to which those have been completed, as well as other job-related factors. The evaluation will also include plans to correct deficient areas and the development of a new set of goals and objectives. This evaluation shall form the basis of any employee merit increase approved.
- C. Goals and objectives. As part of the employee performance evaluation system, the Town Administrator is responsible for devising a procedure for the establishment of annual goals and objectives for each employee. This procedure will provide, as a minimum, for the following:
- (1) July/August. Goals and objectives are drafted by each employee, reviewed by the supervisor and approved, submitted to the Department Head and approved, then submitted to the Town Administrator.
 - (2) August/September. The Town Administrator prepares an annual Town-wide goals and objectives statement for the review and approval of the Board of Selectmen, in consultation with other Town boards, committees and commissions.

(Cont'd on page 5919)

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- (3) September/October. The Town Administrator finalizes and approves each department head's goals and objectives, ensuring that they are consistent with the Town-wide goals and objectives approved by the Selectmen. Each department head ensures that supervisors' and employees' goals and objectives are consistent with the department head's and will contribute toward the completion of department and Town goals.
 - (4) November/December/January. Budgets are prepared which will provide the necessary resources to accomplish all goals and objectives.
 - (5) May. Following Town Meeting action on budgets, each department head's goals and objectives are reviewed by the Town Administrator and modified as required by budget approvals/disapprovals.
 - (6) June. Annual employee performance evaluation of prior year's goals and objectives.
- D. Coverage and procedure. The coverage and procedure for the implementation of the Performance-Based Salary Increase System, increase system, goals and objectives establishment and annual employee evaluations are set forth in a manual developed and implemented by the Town Administrator.

ARTICLE IX Disciplinary Actions

§ 59-33. Responsibility of employees and department heads; reasons for action.

- A. It is the responsibility of all employees to observe the policies and regulations necessary for the proper operation of the Town government.
- B. Department head responsibilities. Department heads are responsible for the proper and efficient operation of their departments and for enforcing all policies and regulations. Supervisors are authorized to apply, with the approval of the department head, such disciplinary measures as may be necessary, in accordance with § 59-33 of this article.
- C. Reasons for disciplinary action. Disciplinary action may be imposed upon an employee for conduct or actions which interfere with or prevent the Town from effectively and efficiently discharging its responsibilities to the public. The following shall constitute cause for disciplinary action:
 - (1) Neglect in the performance of the duties of the position to which the employee is assigned.
 - (2) Disregard for or frequent violations of Town and departmental policies and regulations.
 - (3) Willful misuse, misappropriation, negligence or destruction of Town property or conversion of Town property to personal use or gain.
 - (4) Frequent nonexcused tardiness or absence from duty without approval.

- (5) Violation of any reasonable or official order, refusal to carry out lawful and reasonable directions given by a proper supervisor, or similar acts of insubordination.
- (6) Intoxication or use of alcoholic beverages, narcotics, drugs or other controlled substances while on duty.
- (7) Criminal, dishonest or other unsuitable conduct which interferes with effective job performance or has an adverse effect on the efficiency of the Town service.
- (8) Disregard for or frequent violations of Town bylaws or state laws.

§ 59-34. Procedure.

- A. Immediate action. Any supervisor has the authority to send an employee home, with pay, at any time, if, in the supervisor's opinion, sufficient cause for such action exists. In that event, the supervisor shall provide the department head with a written recommendation regarding the appropriate disciplinary action to be taken, with a copy to the Town Administrator.
- B. Oral reprimand. Whenever grounds for disciplinary action exist and the supervisor determines that more severe action is not immediately necessary, the supervisor should orally communicate to the employee the supervisor's observation of the deficiency and offer assistance in correcting the deficiency. Whenever possible, sufficient time for improvement should precede formal disciplinary action. When an oral reprimand is given, the supervisor should ensure that the employee's personnel file is documented to show the date of the reprimand and the charge. The employee will be advised that this reprimand will be documented in his or her personnel folder. The documentation of the reprimand and comments in the employee's file will be purged at the end of 24 months.
- C. Written reprimand. A written reprimand may be given by a department head or Department of Public Works Superintendent for just cause within 10 days of the date of the behavior giving rise to the reprimand.
 - (1) A written reprimand shall be addressed to the employee and will include: the charge, the specific behavior and the dates of the behavior (where appropriate) that support the charge, the warning that continuance of this behavior will result in more severe disciplinary action; any circumstances affecting the severity of the discipline; and advise on rights of appeal. A copy of the reprimand shall be signed by the employee and be included in the employee's personnel file. The employee will have five working days from the date of signing the reprimand to submit written comments for his or her personnel file.
 - (2) Both documents shall be purged from the file at the end of 24 months, if no other disciplinary action of any type has occurred in that time.
- D. Suspensions and removals. An employee may be suspended or removed from his or her position by the appointing authority in accordance with the procedures set forth in § C7-11 of the Town Charter.

- E. Supervisor defined. For purposes of this section, "supervisor" is meant to be the Town Administrator, any department head or any Superintendent or foreman in the Department of Public Works.

§ 59-35. Appeals.

Any employee aggrieved by any disciplinary action may appeal said action within five working days of receiving notification of the action to the Superintendent or Department Head concerned. The Superintendent or Department Head shall investigate the appeal and render a written decision within five working days of his or her final determination. If the employee is not satisfied with the decision at that level, he may appeal, in writing, to the Town Administrator. Said appeal shall describe the discipline imposed, the decisions rendered by appeal to the Superintendent or department head and the requested relief. All such appeals shall be filed within five working days of receiving the superintendent or department head's decision.

ARTICLE X

Leave

§ 59-36. General policy.

Leave is any authorized absence during regularly scheduled work hours that is approved by proper authority. Leave may be authorized with or without pay and shall be granted in accordance with this chapter on the basis of the work requirements of the departments and, whenever possible, the personal wishes of the employee. All leave will be reported each week on a standard form and in compliance with a reporting policy established by the Personnel Director.

§ 59-37. Procedure for requesting leave.

For all leave other than holiday or sick leave, a written request indicating the kind of leave, duration and dates of departure and return must be approved by the Town Administrator or designee prior to the taking of leave. In the case of disability, injury and emergency leave, the request shall be submitted for approval immediately upon the employee's return to duty. Unless an absence is substantiated by a request approved by the Town Administrator or designee, an employee shall not be paid for any absence from scheduled work hours, and shall be subject to disciplinary action.

§ 59-38. Holiday leave.

- A. The following days shall be recognized as holidays and such other days as may be declared holidays for the conduct of public business by the state government:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Washington's Birthday	Veterans Day
One-half day Good Friday	Thanksgiving Day
Patriots Day	Day after Thanksgiving
Memorial Day	One-half day before Christmas
Independence Day	Christmas Day

- B. Saturday and Sunday holidays. Whenever any of the above named holidays falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be a holiday, unless another day is established by law.
- C. Work on holidays. On the designated holidays, employees not otherwise covered by labor agreement shall be excused from all duty not required to maintain essential services. Employees who perform work shall be paid at double their regular rate of pay for hours actually worked on the holiday, in addition to the amount to which they are entitled as holiday pay. Civilian dispatchers, being necessary to maintain essential services, will be required to work holidays when scheduled. Their pay will be their regular amount of pay. In addition, they will receive an additional day's pay or have the option of taking a day off within 30 working days. It is understood that the Fire Chief, Police Chief and Deputy Police Chief routinely work all holidays, and therefore will receive one day's pay in addition to their regular pay for all holidays in § 10-3 above. **[Amended 4-14-1997 ATM by Art. 30; 6-12-2000 STM by Art. 13]**
- D. Holiday during vacation. If a designated holiday occurs while an employee is on vacation leave, no charge for the holiday will be made against vacation leave.

§ 59-39. Vacation leave.

A. Accrued basis.

- (1) Full-time employees, other than temporary or seasonal employees, are entitled to accrue vacation each year of their employment on the following basis, calculated as of the anniversary date of full-time employment:

(a) Department heads.

Length of Service	Vacation Leave
Initial hire	1.00 day per month (12 days per year)
1 to 4 years	1.25 days per month (15 days per year)
5 to 9 years	1.75 days per month (21 days per year)
10 to 20 years	2.17 days per month (26 days per year)
21 or more years	1 day per year, not to exceed 5 additional days beyond the twenty-year amount

(b) All other employees (nonunion).

Length of Service	Vacation Leave
Initial hire	0.83 days per month (10 days per year)
1 to 4 years	1.00 day per month (12 days per year)
5 to 9 years	1.50 days per month (18 days per year)
10 to 20 years	1.91 days per month (23 days per year)
21 or more years	1 day per year not to exceed 5 additional days beyond the twenty-year amount

- (2) Vacation earned will be credited to an employee's vacation account on the last day of each complete month worked. Vacation may be used only after accrual at rates outlined above. Vacation may be used at any time once accrued and properly approved. Vacation may be used in advance of accrual, up to five days, only after submitting a written request to the department head and Town Administrator, and obtaining approval from both individuals. Any vacation pay received in advance of accrual shall be deducted from an employee's final paycheck, if separation from Town service, for any reason, occurs.

B. Carry-over; buy-back.

- (1) Vacations shall not be exchanged for cash except upon termination of employment. **[Amended 1-12-2004 STM, Art. 22]**
- (2) Vacation accrued in one fiscal year may be carried over to a subsequent fiscal year up to five days. Any "minimum" vacation not used as outlined above, will be forfeited.

C. Buy-back at separation. The Town will buy back all accrued vacation at time of employee separation from Town service, for any cause. Vacation time will be bought back at the employee's then-current rate of pay.

D. Vacation scheduling. Vacation will be requested, in writing at least one week prior to usage. Department heads will be responsible for approving all requests for employees in their departments. The Town Administrator will be responsible for approving all requests for department heads, except that a department head may take up to two consecutive vacation days, at any time, without further approval. To the extent possible, department heads and the Town Administrator shall schedule and approve vacation at such times during the year as will best serve the public interest.

E. Part-time employees. Permanent part-time employees shall accrue vacation at the same rates as above, but prorated in the same ratio as their average weekly hours in comparison to 35. Temporary and seasonal employees shall not accrue vacation.

§ 59-40. Nonoccupational sick leave.

- A. Purpose.** Sick leave shall not be considered as a privilege which an employee may use at the employee's discretion, but shall be allowed only in case of actual sickness or disability of the employee, to meet dental appointments, to take physical examinations or for other

sickness prevention measures. Sick leave may be taken by any eligible employee unable to work due to pregnancy and conditions relating thereto, childbirth and recovery therefrom.

- B. Eligibility. Sick leave shall be available to all permanent full-time and permanent part-time employees. Seasonal, temporary, provisional and emergency employees are not eligible for sick leave.
- C. Use and amount. An employee absent on account of illness or injury shall see to it that his or her supervisor is notified as soon as possible before the regular starting time of the workday. Failure to notify the supervisor may result in absence without pay or other disciplinary action. Sick leave may be taken in increments no smaller than one hour.
- D. Certification of illness. A request for authorization of sick leave must be completed on the day of return to work. Department heads will authorize sick leave use for all employees in their departments and the Town Administrator will authorize sick leave use for all other employees as well as department heads. For sick leave in excess of three workdays, or if the department head suspects that the employee may be abusing sick leave, the department head may require a certificate from a physician appointed by the Town Administrator stating that such illness prevented the employee from working.
- E. Sick leave allowance. A full-time employee shall accrue one day per month of sick leave. Each employee's sick leave account shall be credited on the last day of each complete month of service. Sick leave may be accrued and carried over to subsequent fiscal years without limit. Part-time employees shall accrue sick leave in the same ratio as their average weekly hours in comparison to the category of work performed as defined in § 59-17, Hours of work. Temporary and seasonal employees shall not accrue sick leave.
- F. Reporting. Each department head shall file, on forms provided for such purpose, information regarding the accrual and taking of any and all leave, and shall remit the same to the office of the Town Administrator.
- G. Separation from Town service.
 - (1) Upon separation from Town service for any reason except termination for cause, an employee or his heirs is eligible to receive sick leave buy-back pay, equal to 50% of all accrued sick leave credited to an employee's account, up to a maximum of 80 days' pay. Those employees whose accrued sick leave exceeds 160 days shall forfeit any accrued leave over said 160. The buy-back rate shall be equal to the employee's current rate of pay at separation.
 - (2) Employees hired after July 1, 1995 shall not be eligible to buy back sick leave under the provisions of this subsection, or under the provisions of Subsection H. [Added 6-13-1995 ATM by Art. 43]
- H. Annual disposition. An employee may, in June of each year, dispose of accrued sick leave in the following manner:

- (1) Exchange for vacation. An employee may exchange his or her accrued sick leave for vacation days, at a rate of two sick days for each vacation day, up to a maximum of 20 vacation days (i.e., 40 sick days). In that event, all vacation days shall be credited to the employee's vacation account for the subsequent fiscal year, and shall be subject to the provisions of § 59-38 of this chapter. A request to exchange sick days for vacation days shall be made in writing and shall occur only after sick time is verified and the exchange noted in the employee's personnel file by the Personnel Director. In no event, however, may an employee's sick leave account be less than 40 days.³
- (2) Sick leave pool. An employee may, at any time, transfer any number of his or her sick days to another employee, not to exceed five days per year. Said transfer shall occur only after the receiving employee has exhausted all accrued sick leave of his or her own, and only after a written request has been filed by the transferring employee. The transfer request shall be verified by the Personnel Director and notation made in both employees' personnel files.

§ 59-41. Occupational sick leave.

An employee injured on the job must report the fact immediately to his supervisor. Injury leave, as distinguished from sick leave, shall mean paid leave given to an employee due to absence from duty caused by an accident, injury or occupational disease that occurred while the employee was engaged in the performance of his or her duties.

- A. Most employees are covered by workers' compensation under state statute, and are entitled to benefits under such statute. An injured employee may supplement payments from insurance by taking unused nonoccupational sick leave credits so that he or she will receive full pay during such absence.
- B. Any employee on occupational sick leave shall not work at any other job during the period of incapacitation. Violation shall result in discontinuance of any Town benefit and may result in dismissal.
- C. During periods of incapacity, employees shall be subject to periodic medical examinations as a condition of continued pay, as directed by the Town Administrator. The purpose of these examinations is to secure periodic medical evaluations of the particular employee.

§ 59-42. Bereavement leave. [Amended 6-12-2006 ATM by Art. 51]

- A. The purpose of bereavement leave is to enable an employee to take care of personal arrangements and problems caused by the death of a member of his or her immediate family, and to relieve him or her of the concern over loss of earnings. Full time employees shall be entitled to such leave, without loss of earnings, as follows:
 - (1) No more than five consecutive regularly scheduled workdays, commencing with the notification of death, for the death of the employee's spouse, child, father, mother,

³ Editor's Note: Former Subsection H2, Exchange for Cash, which immediately followed this subsection, was deleted 6-12-1995 ATM by Art. 42.

sister, brother, mother-in-law, father-in-law, grandparent and grandchild, and for the death of any relative or significant other living with the employee at the time of death.

- (2) No more than three consecutive regularly scheduled workdays, commencing with the notification of death, for the death of the employee's step family (mother, father, sister, brother, child) and foster parent.
 - (3) No more than one regularly scheduled workday for the death of the employee's brother-in-law, sister-in-law, aunt and uncle.
- B. Part-time employees shall be entitled to three consecutive regularly scheduled workdays of bereavement leave under sub-paragraph 1., above, one day of bereavement leave under sub-paragraph 2., above and no bereavement leave under sub-paragraph 3., above.
- C. Notwithstanding the limitations provided in paragraph A, above, up to two additional days of bereavement leave may be granted (for both full and part-time employees) at the discretion of the employee's department head; said additional days shall be deducted from the employee's accumulated sick leave and therefore can only be granted if sick leave is available.
- D. At the discretion of the department head, four hours of bereavement leave may be granted to attend the funeral of an active employee who is a co-worker (i.e. works within the same department or building).

§ 59-43. Military leave.

- A. It is the employee's responsibility to notify his or her department head of the dates he or she is leaving for military service and to provide written proof from military or selective service officials to the department head indicating date of departure and length of service required. A copy of such proof will be filed with the Town Administrator.
- B. An hourly employee in the Military Reserve or National Guard shall be paid the difference between total compensation received while on Reserve or Guard duty and regular compensation rates paid the employee by the department, not to exceed 17 workdays in any given twelve-month period.
- C. Salaried employees shall receive their regular pay, up to 17 days per fiscal year, during Military Reserve or National Guard service. It is expected however, that a salaried employee will make up the necessary military leave time, during that same fiscal year.

§ 59-44. Jury duty.

- A. Any employee summoned to jury duty will be excused from his or her work for the period necessary to perform jury duty. Each employee shall be paid regular wages for the first three days, or part thereof, of jury service.
- B. Regular employment shall include part-time, temporary and casual employment as long as the employment hours of a juror reasonably may be determined by a schedule or by custom and practice established during the three-month period preceding the term of service of each juror.

- C. A salaried employee shall receive his or her regular pay for the entire period of jury duty.
- D. An hourly employee shall receive his or her regular pay, less any compensation paid by the court for the period of jury duty after the first three days.

§ 59-45. Court time.

- A. Any employee required to testify in court pursuant to the duties of his or her job shall receive full compensation for all hours actually worked.
- B. Any employee who is required to attend proceedings in court as a defendant, or as a witness, other than as part of their regular employment with the Town, shall do so in an unpaid status. A request for leave without pay shall first be made in accordance with § 59-47 of this chapter. An employee may also use vacation leave for this purpose.

§ 59-46. Maternity leave. [Amended 5-7-1990 ATM by Art. 9]

Every female shall be entitled to maternity leave as provided for in MGL c. 149, § 105D, except that the first six weeks of said leave shall be at the employee's regular rate of weekly compensation, and female employees who adopt a child under 18 years of age, or under 23 if the child is mentally or physically disabled, will be entitled to the same maternity leave that is presently available for female employees who take a leave to give birth.

§ 59-47. Paternity leave.

Every male employee shall be entitled to one week of paid paternity leave.

§ 59-48. Leave without pay.

Upon approval of the Town Administrator or designee, an employee may be granted leave without pay for a specified period of time. At the expiration of a leave without pay, the employee shall return to the position or to a similar position. Failure of the employee to report promptly at the expiration of such leave shall be considered a resignation. Leave without pay shall not constitute a break in service. However, during leave without pay, vacation and sick leave shall not accrue. Copies of any such approved leave shall be on record in the department and in the office of the Town Administrator.

§ 59-49. Personal leave.

- A. An employee may be granted time off with pay to conduct personal business provided such leave is approved in advance. All employees shall request approval, in writing, from the department head. All department heads shall request approval, in writing, from the Town Administrator. A copy of the request and approval/denial shall be forwarded to the Town Administrator's office and placed in the employee's personnel file.
- B. Such personal leave shall not exceed three days in any one fiscal year and is not cumulative from year to year.

- C. Employees donating blood, with the prior approval of their respective supervisors, may be granted leave up to three hours for this purpose.

ARTICLE XI
Clothing Allowance

§ 59-50. Amount and payment. [Amended 6-4-2001 STM by Art. 5; 6-12-2006 ATM by Art. 51]

The Fire Chief, Police Chief and DPW Director will receive a clothing allowance equal to \$500 per year to be paid in December of each year.

PART II

GENERAL LEGISLATION

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Chapter 65

RECORDS AND REPORTS

§ 65-1. Submission of reports.

§ 65-3. Records of town ways.

§ 65-2. Annual Report.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Easton 5-4-1987 by Art. 21 (Art. 5 of the 1922 Bylaws). Amendments noted where applicable.]

§ 65-1. Submission of reports.

All reports shall be placed in the hands of the Board of Selectmen for printing and publishing, as soon as possible, but no later than the 15th day of February of each year.

§ 65-2. Annual Report.

- A. The Board of Selectmen shall annually cause to be printed and made available to the public not later than seven days before the Annual Town Meeting, the reports of the officers of the various departments and boards of the town and a report on such matters as directed by the town and these bylaws.
- B. The distribution or availability of the Annual Report provided for in this section shall not be deemed to be a part of the legal service of the town meeting, and failure to comply with the provisions of this section shall not serve to invalidate the proceedings of any Annual Town Meeting. [Added 5-9-1988 STM by Art. 7]

§ 65-3. Records of town ways.

Whenever a town way is laid out or altered, a plan thereof shall be made and filed in the Town Clerk's office, with the location thereof, and it shall be the duty of the Town Clerk to keep a book of records for the sole purpose of recording the location of all highways and town ways within the town, with an index thereto.



Chapter 73

TREE WARDEN

§ 73-1. Appointment; term of office.

§ 73-3. Vacancies.

§ 73-2. Powers and duties.

[HISTORY: Adopted by the Special Town Meeting of the Town of Easton 6-17-1991 by Art. 4 (Art. 43 of the 1922 Bylaws). Amendments noted where applicable.]

§ 73-1. Appointment; term of office.

The Town Administrator shall appoint a Tree Warden for a three-year term of office.

§ 73-2. Powers and duties.

The Tree Warden shall exercise all of the powers and duties provided for the holders of such offices by the Massachusetts General Laws.

§ 73-3. Vacancies.

The Town Administrator shall fill any vacancy occurring in the office of Tree Warden to fill the unexpired term of such office.



Chapter 89

ADVERTISING, OUTDOOR

§ 89-1. Billboards.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Easton 3-19-1970 by Art. 51 (Art. 19 of the 1922 Bylaws). Amendments noted where applicable.]

GENERAL REFERENCES

Noncriminal disposition of violations — See Ch. 50.

§ 89-1. Billboards.

No billboards shall be erected or maintained within public view from any street or public way in the Town of Easton by any person, firm, corporation or other legal entity, with the exception of those billboards defined under Section II of this chapter.¹

¹ Editor's Note: Former Section II, which immediately followed this section and dealt with billboards licensed by the Outdoor Advertising Division, was deleted 5-9-1988 ATM by Art. 19.



Chapter 93

ALARMS

ARTICLE I Fire/Police Alarms

- § 93-1. Findings; purpose.
- § 93-2. Definitions.
- § 93-3. Administrator.
- § 93-4. Alarm Appeal Board.
- § 93-5. Registration required.
- § 93-6. Confidential information.
- § 93-7. Control of signals emitted by alarm systems.
- § 93-8. False alarms.
- § 93-9. Notice of false alarm charge; appeals.
- § 93-10. Appeal fees.
- § 93-11. Disposition of charges and fees.
- § 93-12. Liability.

- § 93-13. Violations and penalties.
- § 93-14. Enforcement.
- § 93-15. Exceptions.
- § 93-16. Severability.

ARTICLE II Fire Alarm Systems

- § 93-17. Definitions.
- § 93-18. Connection to Fire Department by master box; fees.
- § 93-19. Updating information.
- § 93-20. Fines for malfunctions.
- § 93-21. Appeals.
- § 93-22. Regulations; enforcement.
- § 93-23. Severability.

[HISTORY: Adopted by the Town of Easton as follows: Art. I, by the Annual Town Meeting 6-13-1989 by Art. 21 (Art. 36 of the 1922 Bylaws); Art. II, by the Annual Town Meeting 4-13-1992 by Art. 13 (Art. 46 of the 1922 Bylaws). Amendments noted where applicable.]

ARTICLE I Fire/Police Alarms [Adopted 6-13-1989 ATM by Art. 21 (Art. 36 of the 1922 Bylaws)]

§ 93-1. Findings; purpose.

It is determined that the number of false alarms being made to the Police and Fire Departments hinders the efficiency of those Departments, lowers the morale of Department personnel, constitutes a danger to the general public in the streets during responses to false alarms, and jeopardizes the response of volunteers; and that the adoption of this article will reduce the number of false alarms and promote the responsible use of alarm devices in the Town of Easton.

§ 93-2. Definitions.

For the purpose of this article, the following definitions shall apply:

ALARM SYSTEM — An assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a one-hundred-ten-volt AC line or Fire Department, arranged to signal the presence of a hazard requiring urgent attention to which police and/or firefighters are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premise¹ or an attempted break at a premise are included.

CONTRACTOR — Any firm or corporation in the business of supplying and installing alarm devices or serving² the same.

FALSE ALARM:

- A. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents.
- B. Any signal or oral communication transmitter³ to the Police or Fire Department requesting or requiring or resulting in a response on the part of the Police or Fire Department when in fact there has been no authorized⁴ intrusion, robbery, burglary, attempted threat or fire or threat of fire, illness, injury or threat of life.
- C. For purpose of this definition, activation of alarm systems by acts of vandals, by acts of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbance, shall not be deemed to be a false alarm.

USER — The occupant or owner of the premises containing the alarm system.

§ 93-3. Administrator.

- A. There shall be in the town an administrator for alarm devices who shall have the powers and duties granted under this article.
- B. The Chief of Police and Fire Chief, or his designee, shall be the administrator under the direction and control of the Board of Selectmen, which is authorized to adopt regulations for the administration of this article.

§ 93-4. Alarm Appeal Board.

- A. There shall be in the town an Alarm Appeal Board which shall have the powers and duties granted to it under this article.
- B. The Alarm Appeal Board shall consist of the Board of Selectmen.

¹ Editor's Note: So in original. Should be "premises."

² Editor's Note: So in original. Apparently should be "servicing."

³ Editor's Note: So in original. Should be "transmitted."

⁴ Editor's Note: So in original. Should be "unauthorized."

§ 93-5. Registration required.

Each alarm user shall register his or her alarm device or devices with the administrator prior to use. All alarm devices in use as of the effective date of this article shall be registered no later than 60 days from such date.

§ 93-6. Confidential information.

All information, in the possession of the administrator, the Police Department or the Fire Department concerning particular alarm uses and particular alarm devices, shall be confidential and shall not be divulged without the written consent of the alarm user or users concerned.

§ 93-7. Control of signals emitted by alarm systems.

- A. Every user shall submit to the Police and/or Fire Chief the names and telephone numbers of at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed.
- B. All alarm systems installed after the effective date of this article which use an audible horn or bell, shall be equipped with a device that will shut off such horn or bell within 10 minutes after activation of the alarm system.
- C. Alarm systems installed before the enactment of this article which use an audible horn or bell, shall be equipped with a device that will shut off such horn or bell within 10 minutes after activation of the alarm system. This device shall be installed within six months of the effective date of this article.
- D. All alarm systems which are designated to transmit emergency messages or signals of intrusion to the Police and Fire Departments will be of a type approved by the Chief of Police and Fire Chief.
- E. Any alarm system emitting a continuous and uninterrupted signal for more than 10 minutes which cannot be shut off or otherwise curtailed due to the unavailability of the alarm user or persons designated by him or her, under Subsection A of this section, and which disturbs the peace, comfort or tranquility of a community, neighborhood or a considerable number of inhabitants of the area where the alarm is located shall constitute a public nuisance.

§ 93-8. False alarms.

- A. Upon receipt of three or more false alarms within a calendar year, the Police or Fire Chief:
 - (1) May, in writing, order the user to discontinue the use of the alarm.
 - (2) May disconnect any direct connections to the Police or Fire Department.
 - (3) May order that further connections to the communications console in the Police or Fire Station will be contingent upon the user equipping any alarm system with a

device that will shut off any audible horn or bell within 10 minutes after activation of the alarm system.

- B. The user shall be assessed a false alarm service fee of \$50 for each false alarm in excess of three occurring within a calendar year. All fees assessed hereunder shall be paid to the Town Treasurer for deposit in the general fund.

§ 93-9. Notice of false alarm charge; appeals.

- A. False alarm charges.
 - (1) The administrator shall notify the responsible alarm user of any false alarm charge by mail. Within 30 days after the mailing of such notice, the alarm user may file with the administrator information to show that the alarm was not a false alarm within the meaning of this article.
 - (2) The administrator shall consider such information, reaffirm or rescind the false alarm charge and notify the alarm user of his decision by mail. Within 30 days after the mailing of such notice, the alarm user may file with the Alarm Appeal Board an appeal in writing.
- B. Appeal to the Alarm Appeal Board. Upon receipt of the timely appeal from a false alarm charge, the Alarm Appeal Board shall hold a hearing to consider it and shall mail notice of the time and place of said hearing to the alarm user taking the appeal at his last known address at least 15 days before the hearing. On the basis of information provided by the alarm user and other information introduced at the hearing, the Board shall affirm the charge if it finds that the charge was properly imposed or rescind the charge if the charge was not properly imposed.
- C. Notice to include instruction. Each notice of a false alarm charge or the reaffirmation of such a charge by the Administrator shall refer to and provide instructions concerning the alarm user's right to further recourse by filing information with the Administrator or an appeal with the Alarm Appeal Board, as the case may be.

§ 93-10. Appeal fees.

- A. There shall be a fee of \$25 for each appeal to the Alarm Board.
- B. The amount of the fee for taking an appeal may be raised or lowered from time to time at the discretion of the Alarm Appeal Board.

§ 93-11. Disposition of charges and fees.

Charges for false alarms and appeal fees will be collected by the administrator and deposited in the general fund.

§ 93-12. Liability.

Notwithstanding the provisions of this article, the town, its departments, officers, agents and employees shall be under no obligation whatsoever concerning the adequacy, operation or maintenance of any alarm device or of the alarm monitoring facilities at Police and Fire Headquarters. No liability whatsoever is assumed for the failure of such alarm devices or for monitoring facilities or for failure to respond to alarms or for any other act or omission in connection with such alarm devices. Each alarm user shall be deemed to hold and save harmless the town, its departments, officers, agents and employees from liability in connection with the alarm user's alarm device.

§ 93-13. Violations and penalties.

Any person who performs or causes to be performed any of the following acts shall be subject to a fine of up to \$100 for each such act and also subject to MGL c. 269, § 13:

- A. Intentional causing of a false alarm.
- B. Failure to register an alarm device or give notice of changes in registration information as required by this article; each day of such failure shall constitute a separate violation.

§ 93-14. Enforcement.

The town, upon authorization by the administrator, may institute civil proceedings to enforce the provisions of this article.

§ 93-15. Exceptions.

The provisions of this article shall not apply to alarm devices on premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

§ 93-16. Severability.

The invalidity of any part or parts of this article shall not affect the validity of the remaining parts or in any way act thereon.

ARTICLE II**Fire Alarm Systems**

[Adopted 4-13-1992 ATM by Art. 13 (Art. 46 of the 1922 Bylaws)]

§ 93-17. Definitions.

When used in this article, unless a contrary intention clearly appears, the following words shall have the following meanings:

CENTRAL STATION OPERATING COMPANY — A company equipped to receive a fire alarm signal from each of its customers and then transmits¹ to the Easton Fire Department (EFD) the location of such alarm the central station operating company receives.

FIRE ALARM SYSTEM — Any heat-activated, smoke-activated, flame-energy-activated or other such automatic device capable of transmitting a fire alarm signal to either a central station operating company or directly to the EFD by way of a master box.

FIRE ALARM SYSTEM MALFUNCTION — The transmittal of a fire alarm to a central station operating company or directly to the EFD by way of a master box which alarm is caused by improper installation of a fire alarm system, a mechanically defective fire alarm system lack of maintenance or some other reasons that cause a fire alarm to sound even though there is no actual fire or situation that reasonably could evolve into a fire.

FIRE ALARM SYSTEM OWNER — An individual or entity who or which owns the title to and/or has on his business or residential premises a fire alarm system equipped to send a fire alarm signal to a central station operation company or²

FIRE CHIEF — The Chief of the Easton Fire Department or successor.

MASTER BOX OWNER — An individual or entity who or which has on his business or residential premises a fire alarm system equipped to send a fire alarm signal directly to the EFD by way of a master box.

§ 93-18. Connection to Fire Department by master box; fees. [Amended 6-4-2001 ATM by Art. 20; 2-4-2002 STM by Art. 22]

- A. Every master box owner whose fire alarm system on the effective date of this article is connected to the EFD by way of a master box shall pay an Annual Fee.
- B. Every master box owner whose fire alarm system is connected after the effective date of this article to the EFD by way of a master box shall pay a Permit Fee, a Connection Fee and an Annual Fee.
- C. Before any fire alarm system is connected to the EFD, the master box owner shall provide the Fire Chief with the following information:
 - (1) The name, address and home and work telephone numbers of the master box owner;
 - (2) The street address where the master box is located;
 - (3) The names, addresses and telephone numbers of the persons that own or operate businesses protected by the fire alarm system connected to the master box;
 - (4) The names, addresses and home and work telephone numbers of at least two persons other than the owner who can be contacted 24 hours a day, who are authorized by the master box owner to respond to an alarm signal and who have access to the premises in which the master box is located; and

¹ Editor's Note: So in original. Should be "transmit."

² Editor's Note: So in original.

- (5) Any other such information as the Fire Chief may require.
- D. If at the passage of this article a fire alarm system has already been connected to the EFD by way of a master box, the master box owner shall comply with the requirements of this section within 60 days after the EFD has sent him notice by first class mail of the requirements of this section.
- E. If a master box owner fails to comply with this section, the Fire Chief may assess a fine for each day of non-compliance.
- F. Fees and fines under this section may be set from time to time by the Board of Selectmen.

§ 93-19. Updating information.

- A. Every master box owner shall be responsible for updating the information herein required to be provided to the Chief. If the information changes, the master box owner shall provide the fire chief with the updated information and shall pay the fee, if any, required by this article.
- B. If a master box owner fails to comply with this section, the Fire Chief may assess a fine of \$50.

§ 93-20. Fines for malfunctions.

- A. If there is a fire alarm system malfunction, as defined herein, the Fire Chief may assess a fine against a fire alarm system owner for each malfunction per fiscal year according to the following schedule:
 - (1) First through third malfunction: no charge.
 - (2) Upon recording of the third alarm by the Fire Department per year, the Fire Chief shall notify the owner of the building, in writing and by certified mail, of such fact, and at this time inform the owner of the Department's policy with regards to charging for false alarms (send copy of the policy at this time).
 - (3) Fourth through sixth malfunction: \$100.
 - (4) Seventh through 11th malfunction: \$200.
 - (5) Each malfunction after 11th: \$300.
- B. Private fire alarm systems connected to the Easton Fire Department by other automatic means or through a central station system shall be subject to the above conditions.
- C. Any false fire alarm which is the result of the failure of the property owner, occupant or their agents to notify the Easton Fire Department of repair, maintenance or testing of the internal fire alarm system within the protected premises, shall cause a penalty to be assessed in accordance with Subsection A.
- D. For the purpose of this regulation, a False fire alarm shall be defined as follows:
 - (1) The operation of a faulty smoke or heat detection device.

- (2) Faulty control panel or associated equipment.
 - (3) A water pressure surge in automatic sprinkler equipment.
 - (4) Accidental operation of an automatic sprinkler system.
 - (5) An action by an employee of the owner, or occupant of the protected premises, or a contractor employed by the owner or the occupant, causing accidental activation of the internal fire alarm system.
- E. Property owners will be billed once a month for the previous month's malfunction activity. All fines assessed shall be paid to the Town Treasurer.
- F. If a bill is not paid within 30 days, a second notice will be sent. If the bill is not paid after an additional thirty-day period, a final notice will be sent informing the owner and/or occupant that the master box will be discontinued and the insurance company notified.

§ 93-21. Appeals.

- A. Any fire alarm system owner who is aggrieved by an action taken by the Fire Chief under this article may, within 10 days of such action, file an appeal, in writing to the Board of Selectmen of the Town of Easton. After notice, the Board shall hold a hearing, after which it shall issue a decision in which it affirms, annuls or modifies the action taken by the Fire Chief, giving its reason therefor.
- B. The Board shall send its decision to the owner by first class mail within 10 days after the hearing. The decision of the Board shall be a final administrative decision. The owner shall have 30 days from the date of the written decision to seek judicial review in the Bristol District Court.

§ 93-22. Regulations; enforcement.

The Fire Chief may promulgate such regulations as may be necessary to implement this article. The Fire Chief is authorized to pursue such legal action as may be necessary to enforce this article.

§ 93-23. Severability.

The provisions of this article shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Chapter 96

ALCOHOLIC BEVERAGES

§ 96-1. Definitions.

§ 96-2. Consumption in public areas prohibited.

§ 96-3. Evidence of violation.

§ 96-4. Enforcement; violations and penalties.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Easton 5-21-1980 by Art. 34 (Art. 23 of the 1922 Bylaws). Amendments noted where applicable.]

§ 96-1. Definitions.

The following words, as used in this chapter, unless the context otherwise requires, shall have the following meanings:

BEACH — Any beach under the care and control of the town and beaches within the limits of the town to which the public has a right of access.

CONSERVATION LAND — Any conservation land under the care and control of the town.

PARKS — Any public park under the care and control of the town.

PLAYGROUND — Any playground under the care and control of the town.

PRIVATE PARKING AREA — Any private parking area throughout the town to which the public has the general right of access.

PUBLIC PARKING AREA — Any public parking area under the care and control of the town.

PUBLIC WAYS — All ways to which the public has the right of access.

TOWN FOREST — Any town forest under the care and control of the town.

§ 96-2. Consumption in public areas prohibited.

No person shall drink or consume alcoholic beverages as defined in MGL c. 138, § 1 while on, in or upon the public ways and places set forth in § 96-1 above, whether in or upon a vehicle, motor vehicle or on foot, or place to which members of the public have access as invitees or licensees or park, town forest, public parking areas or playgrounds, or any beach within the limits of the town to which the public has a right of access, or private land or place without the consent of the owner or person in control.

§ 96-3. Evidence of violation.

Possession of an open can, bottle or other container which upon analysis by the Department of Public Health, is determined to contain an alcoholic beverage as defined in MGL c. 138, § 1, shall be prima facie evidence of drinking or consuming said alcoholic beverage. All alcoholic beverages being used in violation of this chapter shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court.

§ 96-4. Enforcement; violations and penalties.¹

A Police Officer may arrest without a warrant anyone who violates this chapter. Whoever violates any provisions of this chapter shall be liable to a penalty of not more than \$50 for each violation. [NOTE: In his letter approving this bylaw the Attorney General stated: "Any arrest power exercised (under this bylaw) should be restricted to common law rights of arrest."]

¹ Editor's Note: See also Ch. 50, Noncriminal Disposition of Violations.

Chapter 100

AMUSEMENT DEVICES

§ 100-1. Use by minors.

§ 100-2. Violations and penalties.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Easton 4-13-1982 by Art. 22 (Art. 31 of the 1922 Bylaws). Amendments noted where applicable.]

GENERAL REFERENCES

Entertainment — See Ch. 132.

§ 100-1. Use by minors.

No person keeping or offering for operations or allowing to be kept or offered for operation any automatic amusement device duly licensed under MGL c. 140, § 177A shall permit the same to be used by a minor under age 16 without the written consent of his parent or guardian.

§ 100-2. Violations and penalties.¹

Any person keeping or offering for operation or allowing to be kept or offered for operation any automatic amusement device as described above, who permits such device to be used by a minor under age 16 without the written consent of his parent or guardian shall be subject to a fine of \$10 for the first and \$20 for each subsequent offense.

¹ Editor's Note: See also Ch. 50, Noncriminal Disposition of Violations.

