ANNUAL TOWN MEETING WARRANT
TOWN OF ASHBURNHAM
COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS

TO THE CONSTABLES OF THE TOWN OF ASHBURNHAM, IN WORCESTER COUNTY,

GREETINGS:

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, YOU ARE HEREBY DIRECTED TO NOTIFY AND WARN THE INHABITANTS OF SAID TOWN QUALIFIED TO VOTE IN ELECTIONS AND TOWN AFFAIRS TO MEET AT OAKMONT REGIONAL HIGH SCHOOL AUDITORIUM, 9 OAKMONT DRIVE, ASHBURNHAM, MA ON

TUESDAY, THE SECOND OF MAY 2023
BEGINNING AT 7:00 P.M.

THEN AND THERE TO VOTE ON THE FOLLOWING ARTICLES AND RESOLUTIONS:

ARTICLE 1

To accept the reports of several town officers and all outstanding committees, or act in relation thereto. *(Requested by the Select Board)*

Brief Explanation: *Annual article to accept the reports of Town officials and boards.*

ARTICLE 2

To see if the Town will vote to authorize a PILOT payment based on the annual kilowatt sales of the Light Department multiplied by a per kilowatt value from the Municipal Light Plant Funds, to the town treasury, as authorized by its Light Board in accordance with Chapter 164 of the General Laws of the Commonwealth, or act in relation thereto. *(Requested by the Municipal Light Department)*

Brief Explanation: *The PILOT agreement is tied to the Pilot payment in the annual kilowatt sales of the light department multiplied by a per kilowatt value. This was put in place for FY13 to ease the calculation and establish a standard process for future years. In FY24 it is estimated we will receive $65,000*

ARTICLE 3

To see if the Town will vote to authorize the Town Treasurer/Collector, with the approval of the Select Board, to borrow money from time to time in anticipation of the revenue of the financial year beginning July 1, 2023, in accordance with the provisions of the Massachusetts General Laws, Chapter 44, Section 4, and to issue a note or notes as may be given for a period of less than one year in accordance with the Massachusetts General Laws, Chapter 44, Section 17, or act in relation thereto. *(Requested by the Town Treasurer/Collector)*

Brief Explanation: *Allows the Treasurer to temporarily borrow operating funds for the Town to ensure payments are done in a timely manner. The Treasurer can only borrow that amount which is expected to be received.*

ARTICLE 4

To see if the Town will vote to authorize the Town Administrator to enter into a contract or contracts with the Massachusetts Highway Department for the construction and maintenance of town roads in conformance with the Massachusetts General Laws, or act in relation thereto. *(Requested by the Town Administrator)*

Brief Explanation: *This article allows the Town Administrator to contract with the State to do road repairs in Ashburnham. This article does not approve any specific project/road, but rather provides the delegation of authority to allow the TA to enter into a contract with the State.*

ARTICLE 5

To see if the Town will vote to appropriate all funds which become available in the Fiscal Year 2024 from the Commonwealth of Massachusetts Department of Highways, Chapter 90 Bond Issue proceeds, to be used by the DPW for the repair and maintenance of town roads in conformance with Massachusetts General Laws, or act in relation thereto. *(Requested by the Town Administrator)*

Brief Explanation: *This annual article allows the Town to expend its Chapter 90 state funds. For fiscal year 2024 the amount of those funds is estimated to be $336,737.*

ARTICLE 6

To see if the Town will vote to transfer a sum of money not to exceed $2,500 from the Waterways Improvement Fund for the purpose of waterway improvement, maintenance, and safety, or act in relation thereto. *(Requested by the Ashburnham Lakes Coalition)*

Brief Explanation: *The Waterways Improvement Fund is funded by a portion of the boat excise tax to be used for waterways maintenance, access, law enforcement or fire prevention. The Ashburnham Lakes Coalition has been given the charge of recommending the use of these monies to the Board of Selectmen who then approve or disapprove expenditures. In the past these monies have been used for Police boat patrols, lifesaving courses, purchase of a Police boat and other water related expenditures.*

ARTICLE 7

To see what spending limits the Town will establish for revolving accounts established pursuant to Chapter 44, section 53E½ of the Massachusetts General Laws and Ashburnham General Bylaws for Fiscal Year 2023; or take any other action related thereto.

Revolving Fund	Spending Limit
RAD Program	$15,000
Fire Alarm & Communications	$20,000
Economic Development Banner Program	$10,000

Brief Explanation: *Now that the revolving funds are established, the limits to what can be collected in each fund and expended is an annual requirement.*

ARTICLE 8

To see if the Town will vote to raise and appropriate the sum of **$806,533** to operate the Water Department for the fiscal year beginning July 1, 2023, or act in relation thereto. *(Requested by the Town Administrator)*

Operation Expenses	251,985
Operate Maintenance of Filtration Plant	320,000
Debt Service	121,631
Indirect Costs	112,917
	$ 806,533

Brief Explanation: *The FY24 expenses reduced 0.86% over FY23. Indirect costs decreased. Operates as an Enterprise Fund.*

ARTICLE 9

To see if the Town will vote to raise and appropriate the sum of **$855,288** to operate the Sewer Department for fiscal year beginning July 1, 2023, or act in relation thereto. *(Requested by the Town Administrator)*

Operation Expenses	301,790
Service Charges Gardner	450,000
Debt Service	-
Indirect Costs	103,498
	$ 855,288

Brief Explanation: *The FY24 Sewer Budget expenses increased by 5.55% over FY23. Indirect costs decreased. Operates as an Enterprise Fund.*

ARTICLE 10 FY24 ANNUAL OPERATING BUDGET

To see if the Town will vote to raise and appropriate the sum of **$19,312,715** to defray the expenses of the Town for the fiscal year commencing July 1, 2023, and to set the salaries of elected officials as set forth below, and to transfer from available funds:
$1,000 from Cushing Academy Trust Fund for secondary school expenses;
$5,967 from special assessments Title V Receipts Account to pay principal and interest on notes payable to the Water Pollution Abatement Trust;
$56,460 from Reserve for Amortization Bond Premium, or act in relation thereto.
(Requested by the Select Board and Advisory Board)

Line	Department Category	FY23 Budget	FY24 Budget
1	Moderator	$ 100	$ 100
2	Board of Selectmen	$ 43,135	$ 45,635
3	Town Administrator	$ 288,075	$ 317,950
4	Advisory Board	$ 500	$ 500
5	Reserve Fund	$ 50,000	$ 50,000
6	Town Accountant	$ 116,200	$ 119,035
7	Board of Assessors	$ 127,545	$ 130,675
8	Treasurer/Collector	$ 173,630	$ 179,202
9	Tax Title	$ 20,000	$ 20,000
10	IT Expenses	$ 203,100	$ 232,900
11	Town Clerk	$ 63,420	$ 65,749
12	Land Use	$ 177,725	$ 184,195
13	Town Buildings	$ 257,865	$ 305,190
14	Non-Departmental	$ 119,830	$ 135,924
15	Police	$ 1,733,535	$ 1,792,805
16	Emergency Dispatch	$ 325,110	$ 329,877
17	Fire	$ 925,365	$ 979,883
18	Animal Control	$ 36,640	$ 36,640
19	Monty Tech	$ 576,224	$ 641,300
20	AWRSD	$ 8,070,155	$ 8,069,171
21	DPW	$ 1,129,791	$ 1,238,425
22	Snow & Ice	$ 230,000	$ 230,000
23	Board of Health	$ 28,735	$ 30,890
24	Conservation Commission	$ 39,330	$ 73,150
25	Council on Aging	$ 40,150	$ 43,265
26	Open Space Committee	$ 1,275	$ 1,275
27	Veterans' Services	$ 120,000	$ 133,390
28	Agricultural Commission	$ 1,000	$ 1,000
29	Community Events & Playground (Former P & R)	$ 29,600	$ 29,500
30	Library	$ 252,830	$ 260,548
31	Historical Commission	$ 1,250	$ 1,250
32	Cultural Council	$ 5,000	$ 5,000
33	Debt Service	$ 1,599,055	$ 1,534,569
34	Employee Ins. Benefits	$ 2,025,755	$ 2,093,722
	Total Operating	**$ 18,811,925**	**$ 19,312,715**

Setting of Elected Salaries under Article 10:

a. Town Moderator: $100
b. Select Board: Chairman - $1,300; Clerk - $1,100; Member - $1,100

Brief Explanation: *Annual operating budget article as noted represents a 2.99% increase over the FY23 budget. The revenues also cover the capital items in the next article. The revenues to offset the cost of the proposed budget come from the following sources:*

REVENUES	FY24- EST
Property Tax Levy	
Prior Year Levy Limit	14,573,774
2 1/2 % Increase	364,344
New Growth	135,000
Debt Service Override-School	1,171,984
Debt Service Override-Municipal	441,225
Other	0
less overlay	(150,000)
Levy Total	**16,536,327**
State Aid	**1,132,061**
Local Receipts Revenue and Transfers In	**1,828,108**
Total Revenue:	**19,496,496**

ARTICLE 11

To see if the Town will vote to raise and appropriate from available funds the sum of **$180,500** to fund the recommendation of the Capital Planning Committee to include the following:

Line	Item	Amount
1	Fire Lease - Rosenbauer 2nd of 10	$105,500
2	Road Repair and Maintenance	$75,000
		$ 180,500

or act in relation thereto. *(Requested by the Town Administrator)*

Brief Explanation: *The capital article is limited to the required articles, which due to financial commitments and imminent departmental need to be addressed at Annual Town Meeting.*

ARTICLE 12

To see if the town will vote to transfer from Free Cash the sum of $240,000 to the Snow and Ice Account (#0010-423-5400-0000), or act in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $240,000 is for the deficit amount in snow and ice this fiscal year.*

ARTICLE 13

To see if the town will vote to transfer from Free Cash the sum of $150 to cover prior period expense, or act in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $150 is to pay a cable bill which was omitted in April 2020 and is shown as past due.*

ARTICLE 14

To see if the town will vote to transfer from Free Cash the sum of $65,000 to cover prior period expense, or act in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $65,000 is for Unemployment Benefit charges from 2018 – 2022 which was caused by an internal change in the process and compounded by a changes in personnel during those years.*

ARTICLE 15

To see if the town will vote to transfer from Free Cash the sum of $85,000 to the Stabilization Account, or act in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $85,000 to Stabilization will better prepare the town for the future needs. Total amount would be $597,364 ($512,364 + $85,000)*

ARTICLE 16

To see if the town will vote to transfer from Free Cash the sum of $42,500 to the Other Post Employee Benefits Account (OPEB), or act in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $42,500 will be used to reduce the future liability.*

ARTICLE 17

To see if the town will vote to transfer from Free Cash the sum of $179,832 to the AWRSD Capital Account to be spent for the following capital equipment and/or projects, including related incidental costs to the School Capital Account, or act in relation thereto: (Requested by the Town Administrator)

Line	Description	Amount
1	District Wide	$ 68,510
2	Oakmont Project	$ 79,174
3	Overlook Projects	$ 32,148
	Total	$179,832

Brief Explanation: *The AWRSD capital article is to cover the requested FY24 capital needs of the school district.*

ARTICLE 18

To see if the Town will vote to transfer from Free Cash a sum of $58,000 to the Capital Account for a Police Marked Cruiser, or at in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $58,000 would be to maintain the fleet and keep pace with the Capital Plan for replacing 2018 Ford Interceptor police vehicle. This is a marked police vehicle.*

ARTICLE 19

To see if the Town will vote to transfer from Free Cash a sum of $58,000 to the Capital Account for a Police Unmarked Vehicle, or at in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $58,000 would be to maintain the fleet and keep pace with the Capital Plan for replacing 2015 Ford Taurus police vehicle. This is an unmarked police vehicle.*

ARTICLE 20

To see if the Town will vote to transfer from Free Cash a sum of $75,000 to the Capital Account for a DPW Vehicle, or at in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $75,000 would be to replace a 2011 Ford F550 One Ton truck and keep pace with the Capital Plan for DPW vehicles.*

ARTICLE 21

To see if the town will vote to transfer from Free Cash the sum of $150,000 to the Capital Account for Highway Repairs and Maintenance Account, or act in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $150,000 is to cover the expenses for Road Repairs and Maintenance this fiscal year.*

ARTICLE 22

To see if the town will vote to transfer from Free Cash the sum of $450,000 to the Capital Account for Highway Repairs and Maintenance Account, or act in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $450,000 is to cover part of the expenses for Road Repairs and Maintenance on Sherbert Road after the Winchendon Water Line is replaced. The total anticipated cost for paving on this project will be over $1 million.*

ARTICLE 23

To see if the town will vote to transfer from Free Cash the sum of $100,000 to the Capital Account for Playgrounds, or act in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $100,000 would be used for future playground equipment or as a match for playground equipment grants.*

ARTICLE 24

To see if the town will vote to transfer from Free Cash the sum of $14,000 to the Personnel Account for Playgrounds, or act in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $14,000 would initially be used to fund a part-time recreation director for the oversite of recreational programming. In the future a recreation fee will be used to maintain this position.*

ARTICLE 25

To see if the town will vote to transfer from Free Cash the sum of $25,000 to the Capital Account for Police Equipment, or act in relation thereto: (Requested by the Town Administrator)

Brief Explanation: *The $25,000 is to cover the expenses for purchasing new 9mm firearms and accessories to replace older 45 caliber models. This will standardize all handguns to the same caliber lowering the need for two different types of ammo while upgrading the firearms.*

ARTICLE 26

To see if the town will vote to 1) establish the Opioid Abatement Stabilization Account pursuant to G.L. c 40, Sec. 5B, 2) accept the fourth paragraph of G.L. c. 40, Sec. 5B which allows the dedication, without further appropriation, of all, or a percentage not less than 25 percent, of particular fees, charges or receipts to a stabilization account, and to 3) dedicate no less than 25% of the money received from judgments or settlements in litigation or claims against opioid manufacturers or distributors, to the Opioid Abatement Stabilization Account, to be effective for the fiscal year beginning on July 1, 2023, or act in relation thereto.

Brief Explanation: This article enables the town to establish a stabilization account for the towns' share of the funds received as a result of the statewide opioid settlement and permits their expenditure for the purposes of the settlement without further appropriation.

REQUIRES A 2/3 VOTE

ARTICLE 27

To see if the town will vote to amend the town's Zoning Bylaw, Chapter 50 as follows: Please note, ~~strikethrough~~ indicates removal from original text. Underline indicates new text.

Section 1.3 Definitions

Story: The space in a building between two adjacent floor levels or between a floor and the roof. Also see definition of *half story*

Frontage: The boundary of a lot coinciding with the street line being an unbroken distance along a way currently maintained by the town, county, or state; along ways shown on a duly approved and recorded subdivision plan; or lies on private way in existence on February 18, 1954. A way may provide frontage only upon determination by the Planning Board that it provides sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land and for the installation of municipal services to service such land and proposed buildings. Frontage shall be able to provide direct access to the lot. Lot frontage shall be measured continuously along street lines between side lot lines. Lots with interrupted or discontinuous frontage must demonstrate that the required length along the street may be obtained from one (1) continuous frontage section along a single way, without any totaling of discontinuous frontage sections. *Also see Zoning sections 4.1.2 Schedule of Dimensional Regulations, 4.2.2 Frontage, and 4.2.3 Corner Lots as well as Planning Board Subdivision Rules and Regulations.*

Proposed Amended Definition:
Customary Home Occupation: An occupation engaged in by a resident of the premises, including but not limited to carpentry, cooking, dressmaking, electrical work, handicrafts, interior decorating, masonry work, painting, plumbing, repairs of appliances or other small items ~~and other similar activities~~, and routine office work, but not including the display or ~~sale~~ warehousing of goods not produced on the premises.

Section 3.1.2 Schedule of Use Regulations

3.1.2 Schedule of Use Regulations Proposed numbering changes to correct number format errors in table so by deleting 3.2.1 a through m, 3.2.2 a through r, 3.2.3 a through d, 3.2.4 a through ff, 3.2.5 a through g, 3.2.6 a and b, and 3.2.7 a and b, and renumbering as follows: 3.1.2.1 a through m, 3.1.2.2 a through r, 3.1.2.3 a through d, 3.1.2.4 a through ff, 3.1.2.5 a through g, 3.1.2.6 a and b, and 3.1.2.7 a and b.

3.2.2j Schedule of Use Regulations Customary Home Occupation:

Customary home occupation conducted on the premises by a resident of the premises, provided that not more than one full-time employee, or equivalent thereof, excluding immediate family, is employed therein in connection with such use and that there is no exterior storage of material or equipment and no display of products visible from the street. *See definition of Customary Home Occupation in Zoning section 1.3*

Section 4.2.2 Frontage:

4.2.2 Frontage:

The frontage of a lot shall be measured as the straight-line distance between the points of intersection of the side lot lines and the street line. Corner lots shall meet the frontage requirement on at least one street. In all residential districts, with the exception of open space residential developments, 75% of the required frontage shall be maintained for a minimum depth of 50 feet measured at a 90° angle from the front lot line towards the back lot line. *Also see definition of Frontage*

4.2.8 Swimming pool fences:

~~**4.2.8 Swimming pool fences.** Outdoor swimming pools having a capacity of 4,000 gallons or more shall be completely surrounded at all times by a fence or wall not less than four feet in height above grade. With regard to aboveground pools, the pool wall itself may serve as a fence. All gates or doors opening through such enclosure shall be of not less than four feet in height and shall be equipped with a self-closing and self-latching device located at least four feet above the underlying ground and inaccessible from the outside to small children. Every such gate or door shall be kept locked at all times, and any ladders serving aboveground pools shall be removed when the swimming pool is not in use.~~

5.1.1 Accessory Buildings:

Current 5.1.1 Accessory buildings: ~~No detached accessory building or structure shall be located closer to any principal building than a distance equal to the height of such accessory building or structure.~~ No accessory building or structure shall be located within the required front yard area nor shall it be located in any side yard nearer to the lot line than 10 feet, or in the rear yard area nearer to the lot line than five feet. In no case shall accessory buildings cover more than 30% of the total required rear yard area.

Proposed 5.1.1 Accessory buildings: A detached accessory building with a footprint up to 1,200 square feet in area, including air-supported, air-inflated, membrane-covered cable and membrane-covered frame structures, may only be erected in the side or rear yard of a lot which already contains a principal building, not on an empty lot. It shall be erected not less than 10 feet from any side lot line, 5 feet from any rear lot line, 6 feet from the principal building, and shall not be located within the required front setback of the zoning district in which it is located. The only exemptions to the front setback requirement are for signs erected in conformance with section 5.2 Signs and temporary farm stands in conformance with section 3.1.2 Schedule of Use

Regulations. In no case shall accessory buildings cover more than 30% of the total required rear yard area. Accessory buildings larger than 1,200 square feet shall follow the dimensional regulations for principal buildings for the zoning district in which it is located. *Also see Zoning section 4.1.2 Schedule of Dimensional Regulations*

Proposed new section 5.1.3 Use of Transportable Structures for Habitation
5.1.3 Use of Transportable Structures for Habitation:
No person shall occupy any recreational vehicle, camper, motor home, or other structure which is designed to be transportable, for the purpose of living, sleeping, cooking or eating therein, unless it is either located within a permitted and inspected campground or it has been issued a temporary permit from the Board of Health in accordance with Ashburnham Board of Health Regulations and State Sanitary Code 105 CMR 410. *Also see zoning section 1.3.1 Definition of Recreational Vehicle, and 5.6 Mobile Homes and Mobile Home Parks.*

Proposed revision to 5.6.2 Temporary mobile home location
5.6.2 Temporary mobile home location:
A. The provisions of §§ 1.1.2 and 3.1.2 notwithstanding, a mobile home may be located and occupied for a period not to exceed 12 months by the owner of a lot for the purpose of rebuilding an existing residence which has been damaged or destroyed by a disaster and made uninhabitable.
B. The provisions of §§ 1.1.2 and 3.1.2 notwithstanding, a mobile home may be located and occupied for a period not to exceed 12 months by the owner of a lot for the purpose of constructing a new residence.
C. No mobile home shall be located or occupied for the above purposes until the owner of the lot has obtained a building permit for the proposed construction, a building permit for the temporary mobile home, and has installed a septic system and a water supply. The permitted period of occupancy shall begin upon compliance with the provisions of this subsection.
D. An extension of the permitted period of occupancy may be granted by the Board of Appeals after an application and public hearing. Such extension shall be for not more than 12 months, and no more than one such extension may be granted.
E. The rights of location and occupancy of a mobile home granted under this section shall cease upon the expiration of the permitted period of location and occupancy or upon the issuance of a certificate of occupancy according to the provisions of Section 6.3, whichever occurs first, and the provisions of § 1.1.2 and the Schedule of Use Regulations, Subsection 3.2.2,[1] with respect to mobile homes shall than apply forthwith.

Proposed revision to Section 5.12 Accessory Dwelling Units
5.12 Accessory Dwelling Units
5.12.1 Purpose and intent.
The intent of permitting accessory dwelling units (ADU) is to:

A. Provide older homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
B. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate-income households who might otherwise have difficulty finding housing;
C. Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle;
D. Provide housing units for persons with disabilities;

E. Protect stability, property values, and the residential character of a neighborhood.

5.12.2 Procedural requirements.

A. Review procedure.

(1) The Planning Board, acting as the special permit granting authority (SPGA), shall grant a special permit for an accessory dwelling unit as provided for in this bylaw.

(2) The Planning Board shall adopt an application form and rules and regulations in accordance with the special permit provisions of this section of the bylaw. Rules and regulations shall specify the application process, type and number of required plans, and general requirements in order to assist the applicant in complying with the intent of this bylaw. *See Ch. 410, Accessory Dwelling Units.*

5.12.3 Use and dimensional regulations.

A. The Planning Board shall issue a special permit authorizing the installation and use of an accessory dwelling unit within an existing or new owner-occupied, single-family dwelling when the conditions outlined in Subsection A(1) through (9) have been met, or the Planning Board may issue a special permit authorizing the installation and use of an accessory dwelling unit in a detached structure on a single-family home lot only when the conditions outlined in Subsection A(1) through (9) have been met:

(1) The unit shall be a complete, separate housekeeping unit containing both kitchens, sleeping quarters, and bath.

(2) Only one accessory dwelling unit may be created within a single-family house or lot.

(3) The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence, except for bona fide temporary absences.

(4) Any new, separate, outside entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building and shall not be visible from the way providing primary access to the lot.

(5) The gross floor area of an accessory dwelling unit (including any additions) shall not be less than 300 square feet or more than 900 square feet of living space. If the accessory dwelling unit is a subdivision of the main house, the main unit cannot be made smaller than the accessory unit. ~~40% of the gross floor area of the main structure on the date the application is filed.~~

(6) Once an accessory dwelling unit has been added to a single-family structure or lot, the accessory dwelling unit shall never be enlarged beyond the area allowed in Subsection A(5) without approval of the Planning Board.

(7) An accessory dwelling unit shall not be occupied by more than four ~~three~~ people nor have more than two bedrooms.

(8) The construction of any accessory dwelling unit shall be in conformity with the State Building Code, Title V of the State Sanitary Code and other local bylaws and regulations.

(9) At least one off-street parking space shall be provided for the accessory dwelling unit in addition to any other off-street parking requirements in § 5.3.2 of the Zoning Bylaw.

B. In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the SPGA may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

C. Approval for an ADU requires that the owner shall occupy one of the dwelling units. The approval and the notarized letters required in Subsections D and E below must be recorded in the Worcester Northern Registry of Deeds or Land Court, as appropriate, in the chain of

title to the property, with documentation of the recording provided to the Building Commissioner, prior to the occupancy of the accessory dwelling unit.

D. When a structure which has received a special permit for an accessory dwelling unit is sold, the new owner(s), if they wish to continue to exercise the permit, must, within 30 days of the sale, submit a notarized letter to the Building Commissioner stating that the owner(s) will occupy one of the dwelling units on the premises as the owner(s) primary residence, except for bona fide temporary absences.

E. Prior to issuance of a special permit, the owner(s) must send a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence, except for bona fide temporary absences.

F. Prior to the issuance of a special permit, a floor plan must be submitted showing the proposed interior and exterior changes to the building.

5.12.4 Administration and enforcement.

A. It shall be the duty of the Building Commissioner to administer and enforce the provisions of this bylaw.

B. No building shall be constructed or changed in use or configuration until the Planning Board has issued a special permit and the Building Commissioner has issued a building permit. No special permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health and the proposed building and location thereof conform with the Town's laws and bylaws. Any new building or structure shall conform to all state and Town laws, bylaws, codes and regulations. No ADU permitted under this bylaw shall be occupied until a certificate of occupancy has been issued by the Building Commissioner.

C. The Building Commissioner shall refuse to issue any permit which would result in a violation of any provision of this Section 5.12 or in a violation of the conditions or terms of any special permit granted by the SPGA.

D. The Building Commissioner shall issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of Section 5.12.

E. Construction or use according to a special permit shall conform to any subsequent amendment of this chapter unless the construction or use is begun within a period of not more than six months after the issuance of a special permit granted under this bylaw before the effective date of the amendment.

F. The SPGA specified in this section may, upon making findings of fact supporting said waiver or modification, approve a waiver or modification to the dimensional standards of this bylaw, provided that such waiver or modification is not greater than 10% of the dimensional standards.

5.12.5 Waiver of compliance.

The Planning Board, acting as the SPGA under this bylaw, may waive strict compliance with any requirements of this bylaw, where the SPGA makes a finding such waiver is in the public interest and not inconsistent with the purpose and intent of the Zoning Act or this Section 5.12.

5.12.6 Validity.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

Brief Explanation: These amendments update the zoning bylaw in several areas, including adding new definitions, amending definitions and renumbering the Schedule of Use Regulations.

These amendments also propose deleting the "swimming pool fences" provision in its entirety since swimming pool fences are regulated by the State Building Code, 780 CMR, and the town's current provision is inconsistent with that Code.

REQUIRES A 2/3 VOTE

ARTICLE 28

To see if the town will vote to delete General Bylaw, Chapter 60: Personnel in its entirety, as set forth below, or act in relation thereto.

Brief Explanation: The Selectboard has adopted the bylaw language as a Personnel Policy to be effective upon the town meeting's vote to remove it from the General Bylaws.

~~Chapter 60~~
~~Personnel Bylaw~~

~~**[HISTORY: Adopted by the Town Meeting of the Town of Ashburnham as Ch. XXVII of the Bylaws; amended 5-6-2006 ATM by Art. 20; 5-2-2009 ATM by Art. 23; 11-30-2009 STM by Art. 6; 11-17-2010 ATM by Art. 14. Subsequent amendments noted where applicable.]**~~

~~**Note:** All new employees will be given a copy of this bylaw on their date of hire or at the first opportunity thereafter.~~

~~Article I~~
~~Purpose~~

~~§ 60-1.0 **Purpose.**~~
~~The purpose of the Personnel Bylaw is to establish and operate an efficient system of public personnel administration, and to provide for a fair and equitable employee relations policy in municipal government in conformity with Town bylaws, and federal and state laws, including and subject to all applicable provisions of Chapter 31 of the General Laws.~~

~~§ 60-1.1 **Applicability.**~~
~~This Personnel Bylaw shall apply to all employees in the Town except the following:~~

~~A. All effective officers and persons appointed to fill vacancies in elective offices.~~

~~B. Members of boards, commissions, committees and authorities.~~

~~C. Volunteer personnel and personnel appointed to serve without pay.~~

~~D. Employees covered by a collective bargaining agreement.~~

~~§ 60-1.2 **Administration; amendments.**~~
~~The Town Administrator and department heads shall be responsible for the proper administration of these policies. The Town Administrator shall review these policies at least annually and shall report to the Board of Selectmen as to whether any amendments or revisions are necessary. The Town Administrator shall solicit employee input prior to making his recommendations. These bylaws may be amended by majority vote of Town Meeting.~~

~~§ 60-1.3 **Appointing authority.**~~
~~The Board of Selectmen, Town Administrator or any board, commission, committee or manager so empowered by Charter, who has the power to appoint an employee to any nonelective position.~~

~~§ 60-1.4 **Employees.**~~
~~"Employee" as used in the Personnel Bylaw shall mean any person paid and employed by the Town, whether full-time, part-time, probationary, seasonal or temporary.~~

~~A. Full-time employee. An employee who has completed the probationary period and who works a regularly established work schedule of at least 37 1/2 hours per week. Regular full-time employees are eligible for employee benefits as defined in this bylaw.~~

~~B. Permanent part-time employee (20+ hours per week). An employee who has completed the probationary period and regularly works less than 37 1/2 hours per week on a regular, year-round basis. Such employee is eligible for all employee benefits on a pro-rated basis (see § **60-6.4** of this bylaw).~~

~~C. Temporary/seasonal employee. An employee who is scheduled to work less than nine months per year, or who works on an "on-call" or "as needed" basis. Such employees are not eligible for employee benefits except as outlined in this bylaw (see § **60-6.4** of this bylaw).~~

~~§ 60-1.5 **Position.**~~
~~Work to which an employee is assigned which consists of duties and responsibilities that reflect the full requirements of the position.~~

~~§ 60-1.6 **Probationary period.**~~
~~A working test period of up to six months during which time an employee is required to demonstrate ability to meet acceptable standards of performance prior to an appointment to a position.~~

~~§ 60-1.7 **Seniority.**~~
~~Seniority is the continuous full-time service of an employee in the Town computed in years, months, and days from the date of hire.~~

~~§ 60-1.8 **Loss of seniority.**~~
~~An employee shall lose seniority if the employee:~~

~~A. Quits or resigns.~~

~~B. Is discharged.~~

~~C. When recalled from layoff, fails to return to work within five working days after notification was sent by registered mail.~~

~~Article II~~
~~Classification and Pay Plan~~

~~§ 60-2.0 **Classification plan.**~~

~~A. The Town Administrator is responsible for the preparation of a position classification plan including a written definition for each class of positions in the Town services that describe the duties, authority, minimum qualifications, and responsibilities characteristic of positions properly included in the class.~~

~~B. For the purpose of complying with the Federal Fair Labor Standards Act, positions shall be classified as "exempt" from the FLSA Regulations or "non-exempt" from the FLSA Regulations according to the definitions included in the Act.~~

~~§ 60-2.1 **Position classification.**~~
~~Each classification shall contain positions that are substantially similar with respect to difficulty, responsibility, character of work, and which are substantially equal with respect to the amount of experience or training required for satisfactory performance.~~

~~§ 60-2.2 **Position description.**~~
~~A position description is a written outline of responsibilities for each job in the classification plan. Each position description includes a position title, a description of the representative duties, and the general level of responsibility and authority of the work, a statement of minimum qualification requirements for satisfactory performance of the work, and other pertinent information and shall be dated upon issuance. In addition, any changes to any position description shall also be in writing and bear the date of such change. The position description shall be standard for classifying individual positions and for determining when reclassification is warranted.~~

~~A. Position descriptions not restrictive. The statements of the position descriptions are descriptive and not restrictive. They indicate the kinds of duties and level of responsibilities assigned to the class, but do not limit the power of a department head or supervisor to direct, assign, and control the work of the department's employees. The use of examples illustrating the duties should not be construed to exclude others not mentioned which are of similar kind and quality.~~

~~B. Administration of position descriptions. All Town employees shall be given a copy of their appropriate position description and shall be furnished new ones if their positions are reclassified. Copies of position descriptions for all Town positions are maintained in the Town Administrator's office and may be reviewed by Town employees.~~

~~C. Review of descriptions. The employee's position description shall be reviewed no less than~~

~~once every four years to note any significant changes which may have taken place in the employee's duties. An outside consultant hired by the Town shall conduct this review, subject to the Town Administrator's approval and budgetary constraints.~~

~~§ 60-2.3 **Reclassification.**~~

~~A. Reclassification of positions shall occur when the duties of a position warrant transfer to another grade level reflecting its duties, authority, and responsibility. Any employee may request a reclassification review no more than once every two years.~~

~~B. Classification review. Changes in the description shall be reviewed by the consultant for changes significant enough to warrant reclassification to another grade, or a rewriting of the job description. The Town Administrator and appropriate department head shall be notified of positions that have been reclassified, and a new description shall be forwarded to the Town Administrator, supervisor and employee.~~

~~§ 60-2.4 **Pay plan (nonunion employees).**~~

~~The pay plan consists of pay grades directly related to the classification levels. Each pay grade shall have established minimum and maximum pay rates. Except as otherwise provided in these policies, no employee may be paid outside the wage range established for the applicable classification level. Wage ranges shall be reviewed no less than once every four years.~~

~~A. Maintenance and adoption of the pay plan/Personnel Bylaw. The Town Administrator shall periodically prepare and recommend a pay plan as described above, which shall become effective upon approval of the Board of Selectmen, or in the alternative, shall be deemed approved if the Board fails to act affirmatively or negatively within 30 days of written notification by the Town Administrator of a proposed change to the pay plan. The recommendations of the Town Administrator shall be based upon consideration of all factors relevant to the maintenance of sound compensation practices in the Town services. Such factors shall include pay practices of other comparable municipalities for comparable work; other benefits received by Town employees; suggestions from department heads; and the ability of the Town to recruit and retain qualified personnel.~~

~~B. Compensation changes. For other than employees who report to the Town Administrator, the Town Administrator, with input from the department head if appropriate, shall have the authority to make and approve changes in employee compensation resulting from such personnel actions as reclassification, promotions, demotions, and transfers, or because of abolishment, modification, or establishment of classes within the approved budget. For employees who report to the Town Administrator, the Town Administrator may recommend to the Board of Selectmen any changes in employee compensation resulting from such personnel actions as reclassification, promotions, demotions, and transfers, or due to the abolishment, modification, or establishment of classes within the approved budget. Said recommendations require approval of the Board of Selectmen for implementation.~~

~~C. Pay for performance. Wage and salary increases, promotions, and other actions shall be based upon meritorious performance and shall not be considered automatic or based upon length of service alone. The Town Administrator shall be responsible for establishing a written merit pay plan, with all required policies and forms, within six months at passage of this bylaw and subject to approval by Selectmen.~~

~~§ 60-2.5 **Pay administration: starting rates.**~~

~~An employee appointed to a position shall be compensated at the minimum wage rate according to the applicable classification level, except that the Town Administrator may make appointment at a rate higher than the minimum if such action is justified by exceptional qualifications of the applicant or by lack of qualified applicants available at the minimum rate but may not exceed the pay plan. The Town Administrator's decision shall be final.~~

~~A. Rate of pay for promotion. A promotional increase which is at least equivalent to the minimum salary of the new pay grade shall be granted at the time of the promotion, but shall not be less than what the employee is presently earning.~~

~~B. Rate of pay for transfer or demotion. When a regular employee is transferred from one position to another in the same pay grade, the employee shall continue at the same pay rate. When a regular employee is demoted to a position with a lower pay grade, the employee's salary shall be reduced to a pay rate within the lower pay grade. The pay grade selected will be determined by the pay grades directly related to the classification levels of the pay plan.~~

~~C. Transfer authority. The Town Administrator may transfer qualified employees between departments, or to positions within the same department, depending upon the needs of the Town and in consultation with department heads and subject to all applicable provisions of Chapter 31 of the General Laws.~~

~~D. Pay for temporary assignment outside classification. When an employee is temporarily assigned via personnel action to a position in a class with a higher minimum rate of pay (working out of the classification) the Town Administrator may grant a pay increase to the starting rate of the class or a higher rate of pay which provides a pay increase for the duration of the temporary assignment not to exceed six months or longer with the Selectmen's approval. When an employee is temporarily assigned to a classified position below their existing grade, the employee shall continue to be paid at their current rate.~~

~~§ 60-2.6 **Basis of pay.**~~

~~A. Hourly paid employees (nonexempt). Employees paid on an hourly basis shall be paid for the actual number of hours worked during a pay period times the hourly rate.~~

~~B. Salaried employees (exempt). Employees paid on a salary basis shall be paid by dividing the annual salary rate by 52 (weeks). If a fiscal year has more than 52 weeks, the employee's pay will be fractionally increased by that pro-rated amount.~~

~~C. Paychecks. All employees shall receive their paychecks biweekly. Paychecks shall not be given by the department head to anyone other than the person for whom they are written unless a request is made in writing in advance by the person to whom the check is payable. Paychecks shall not be distributed prior to the date and hour authorized by the Treasurer unless for extenuating circumstances and approval by the Town Administrator.~~

~~D. Advanced vacation pay. Employees may request advanced vacation pay by submitting their request to the Treasurer's office at the same time they submit payroll information for the pay period that would allow for check disbursement the week prior to their going on vacation.~~

~~E. Payroll deductions. No payroll deductions, other than legally required deductions, will be made from the employee's paycheck without the employee's written approval.~~

~~F. Minimum wage. It is the policy of the Town to pay no less than the federal or state minimum wage, whichever is higher.~~

~~§ 60-2.7 **Overtime pay.**~~
~~Nonexempt Town employees shall receive time-and-one-half pay for all hours worked over 40 hours in any one week. A week is defined as that period of time commencing at 12:01 a.m. Sunday morning and ending 12:00 midnight the following Saturday.~~

~~A. Compensatory time. The substitution of compensatory time off in lieu of overtime for nonexempt employees is expressly forbidden.~~

~~B. Leave categories counted. When calculating overtime pay for nonexempt employees, paid holidays, sick days, vacation days, and personal days shall be considered as time worked.~~

~~C. Holiday/Sunday pay. Not withstanding the provisions of the lead-in paragraph to this section, work on a holiday or Sunday as defined in this bylaw shall be paid at two times the employee's regular rate of pay plus the employee's regular pay. All other overtime shall be paid at 1-1/2 the employee's regular rate of pay.~~

~~D. Overtime equity. When overtime is required, overtime shall be divided as equally as proficient operations permit among those employees performing similar work.~~

~~E. Positions exempt from overtime pay. Supervisory, professional, and administrative personnel who are classified in exempt positions have an obligation that goes beyond fixed work schedules and they shall not be paid for overtime work except under exceptional circumstances or with prior written approval of the Town Administrator. In those cases where exempt employees are called out for an emergency, such as snow plowing or a major public safety problem, which requires a substantial amount of overtime work, the Town Administrator, in his sole discretion, may approve the payment of overtime pay. Use of compensatory time by exempt employees will be in accordance with written policy established by the Town Administrator.~~

~~§ 60-2.8 **On-call rates.**~~
~~Specific on-call pay rates may be available on an individual department basis with the approval of the Town Administrator and Selectmen in compliance with the FLSA.~~

~~A. Call-back rates. There shall be a minimum of three hours paid overtime for nonexempt employees called back to work after their normal workday has ended. Nonexempt employees who are called to work prior to the start of their next shift and who return home prior to the start of their next shift shall be paid for the hours worked or a minimum of three hours paid overtime, whichever is more.~~

~~B. Emergency closing. Emergency closing procedures for Town Hall and all other facilities will be established by written policy of the Town Administrator. In any event where the Town Administrator orders an emergency closing which does not comply with the written policy, he or she shall attempt to notify the Chairman of the Board of Selectmen prior to exercising such a closing.~~

~~Article III~~

~~Recruitment and Selection~~

~~§ 60-3.0 **Recruitment policy.**~~
~~Individuals to fill department head positions shall be recruited from a geographic area as wide as is necessary to assure obtaining well-qualified candidates for the various types of positions. Individuals to fill all other positions shall first be recruited from within the Town government, and only after it is determined by the Town Administrator that there is not a qualified candidate within the Town government shall the recruitment be expanded to include a geographic area wide enough to assure obtaining well-qualified candidates for that position.~~

~~§ 60-3.1 **Announcement of vacancies.**~~
~~The Town Administrator shall make known all vacancies for positions by posting announcements of such vacancies on official Town bulletin boards. When it is necessary to recruit from outside the Town government pursuant to § **60-3.0**, the Town Administrator shall advertise in three sources (newspapers, journals, etc.), the Town website to the extent necessary to insure sufficient numbers of qualified candidates.~~

~~A. Recruitment expenses. It is recognized that various staff, professional, and supervisory positions may require recruitment from outside the area to obtain well-qualified applicants. Accordingly, in recruiting for and filling positions of this type, the Town Administrator may authorize payment of expenses for an applicant's trip for a personal interview as may be approved by the Board of Selectmen. Reimbursable expenses may include an allowance for transportation, meals, and lodging.~~

~~B. Nondiscrimination. The Town of Ashburnham, as an equal employment opportunity employer, shall consider applicants for employment with the Town and candidates for promotion on the basis of their qualifications for a position and without regard to race, color, political or religious affiliation, sex, age, marital status, national origin, place of birth, or mental or physical handicap. The Town conforms to the Civil Rights Act of 1964 and Executive Order 11246.~~

~~§ 60-3.2 **Application form.**~~
~~Each candidate for municipal employment shall make application on a standard form prescribed and provided by the Town Administrator. Such information as is deemed necessary may be required in order to judge the applicant's fitness for services in the Town. Applications shall not be returned but shall remain on file for five years. For certain positions, the Town Administrator may also require the submission of a resume and other pertinent data.~~

~~§ 60-3.3 **Selection policy.**~~
~~Selection and appointment to all Town positions shall be based solely upon job-related requirements and the applicant's demonstration of the skills, knowledge, abilities and other characteristics necessary for successful job performance and career development, as outlined in the position description.~~

~~A. Selection procedures. Determining examination: The Town Administrator shall determine which test or combination of tests will be used to evaluate the relative fitness of each candidate for the position.~~

~~B. Test shall be germane and fair. The test selected shall relate to the duties and responsibilities of the position for which candidates are being examined, and shall fairly appraise and~~

~~determine the merit, fitness, ability, and qualifications of competitors to perform the duties of the position.~~

~~C. Evaluation procedures. A variety of candidate evaluation procedures may be employed, such as reference checks (as outlined in § **60-3.5**), personal interviews, assessment of training, education and work experience, medical examinations, written, oral and performance tests. Each procedure utilized, including personal interviews, shall be administered and scored on a standardized basis to insure equity.~~

~~§ 60-3.4 **Interviewing candidates.**~~
~~During interviews, no reference shall be made by anyone employed by the Town regarding an applicant's religion, sex, color, race or national origin, marital status, or arrangements for child or elder care.~~

~~§ 60-3.5 **Reference checks.**~~
~~The Town Administrator or a designee shall make the necessary contacts for the purpose of checking references. All reference checks shall be considered personal and confidential in order not to jeopardize the candidate's present employment status. Background investigations shall also be conducted with the applicant's prior knowledge and written consent.~~

~~§ 60-3.6 **Appointments.**~~
~~The Town Administrator shall notify the appointee in writing and shall include in such writing the date upon which employment shall commence, the rate of pay, the work schedule, any other information which the Town Administrator deems appropriate, and that the appointment is made subject to completion of a physical to be administered by a Town-appointed physician, as well as background and reference checks. The Town Administrator shall notify in writing all applicants of the decision to hire someone else for the position the applicant applied for.~~

~~A. Regular appointment/probationary period. A regular appointment shall mean that an employee is to work for the Town in either a full- or part-time basis. Every employee who receives this type of appointment shall serve a probationary period following the original appointment in accordance with the provisions of Article **IV** of this bylaw. Upon recommendation of the department head that the employee has satisfactorily completed the probationary period and approved by the Town Administrator, the employee's status of employment shall be changed from probationary to regular in accordance with Article **IV**.~~

~~B. Temporary appointment. When a position in the Town service is limited in duration, such as for special projects, or requires the services of an individual on an irregular, intermittent, or seasonal basis, the Town Administrator may appoint from among the best qualified candidates with no probationary period.~~

~~C. Emergency appointment. The Town Administrator may authorize the appointment of any qualified person to any position required to prevent the cessation of public business or serious inconvenience to the public without regard to the rules affecting appointments. In this case, the Town Administrator will obtain approval from the Board of Selectmen if the emergency persists for more than 15 days.~~

~~D. Physical examinations. After appointment to the Town service, the Town Administrator will require a medical examination to ensure that an employee is able to perform the duties of the position. A practicing physician appointed or approved by the Town and at the expense~~

~~of the Town shall perform such examination. All appointments will be made subject to the completion of this physical examination.~~

~~E. Orientation packages. The Town Treasurer's office will ensure that all employees receive an orientation package as soon as practical upon being hired, which shall include, at a minimum, a description of all Worcester Regional Retirement benefits, the Town's employee group health/dental/life insurance plans, this bylaw and other materials the Treasurer believes necessary.~~

~~Article IV~~
~~**Probationary Period**~~

~~§ 60-4.0 **Probation.**~~
~~The six-month probationary or working test period shall be regarded as an integral part of the examination process. It shall be utilized by supervisors and department heads for closely observing the new or promoted employee's work and conduct, securing the most effective adjustment of a new employee to the position, and rejecting any employee whose performance does not meet the required work standards. The department head shall certify whether the employee's performance has been satisfactory at the completion of the probationary period.~~

~~§ 60-4.1 **Duration.**~~
~~The probationary period shall begin immediately upon original appointment or promotion and continue for six months. Throughout the probationary period, the department head shall observe the employee's performance and any strengths or weaknesses shall be discussed with the employee. Such factors as work habits, attitudes, attendance, punctuality, and the ability to work with others will be observed and recorded in writing.~~

~~A. Probation expiration.~~

~~(1) At least 10 days prior to completion of the probationary period, the department head shall notify the Town Administrator in writing that:~~

~~(a) The employee's performance was satisfactory and that the individual should be retained as a regular employee in the position; or~~

~~(b) The employee's probationary period should be extended for another three months; or~~

~~(c) The employee's performance or conduct was unsatisfactory, and that removal is proposed as of a recommended date. The department head shall furnish reasons for the recommended removal, and may terminate the employee upon approval of the Town Administrator.~~

~~(2) In the case of department heads, the Town Administrator shall notify the Board of Selectmen in writing at least 30 days prior to the completion of the probationary period that:~~

~~(a) The employee's performance was satisfactory and that the individual should be retained as a regular employee in the position; or~~

~~(b) The employee's probationary period should be extended for another three months; or~~

~~(c) The employee's performance or conduct was unsatisfactory, and that removal is proposed as of a recommended date. The Town Administrator shall furnish reasons for the~~

~~recommended removal, and may terminate the employee upon approval of the Board of Selectmen.~~

~~B. Written notice. The department head shall provide written notice of the employment decision to the employee.~~

~~§ 60-4.2 **Removal of probationary employees.**~~

~~A. An employee may be removed at any time during the probationary period by the department head with approval of the Town Administrator if the employee is unwilling or unable to perform required duties or if work habits or dependability do not merit continuation of the employee in the position. The employee shall be notified in writing of the reasons for termination and the effective date of the action. The employee may not appeal the removal.~~

~~B. False application information. An employee may also be removed by the Town Administrator, appointing authority or department head at any time during the probationary period if it is revealed that information submitted prior to appointment was intentionally falsified.~~

~~§ 60-4.3 **Benefits during probationary period.**~~

~~All full-time and permanent part-time employees serving the probationary period shall receive the same benefits as other full-time and permanent part-time regular employees.~~

~~Article V~~
~~Rules of Conduct~~

~~§ 60-5.0 **Hours of work.**~~

~~Each department's hours of work shall be determined by consultation between the department head and the Town Administrator. The Town Administrator will have final authority to establish working hours for each department.~~

~~§ 60-5.1 **Absences, tardiness and early departures.**~~

~~Department heads and supervisors shall record all absences, tardiness, and early departures. Absences, tardiness, and early departures for unsatisfactory reasons shall be grounds for disciplinary action by the department head or supervisor. Employees shall not be paid for time lost due to absences, tardiness, and early departures for unsatisfactory reasons.~~

~~§ 60-5.1.1 **Medical appointments.**~~

~~Doctors and dentists' appointments should be scheduled other than during working hours. Such appointments if scheduled during working hours shall be charged to sick time.~~

~~§ 60-5.2 **Attendance.**~~

~~Regular attendance during all scheduled hours of work, reporting for work on time, and continuing to work to the end of the work period is expected of every employee on each scheduled workday. Nonexempt employees shall record daily hours worked in writing (on attendance sheets) for their supervisors. Exempt employees shall record absences of 1/2 day or more from work only and then only to indicate the leave category to which the absence is charged. All attendance sheets shall be signed for approval by the department head, sent to the Town Administrator and maintained on file for three years.~~

~~§ 60-5.3 **Sexual harassment policy.**~~

~~A. Findings and intent.~~

~~(1) The Town of Ashburnham (the "Town") depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to providing a working environment that is free of all forms of abuse or harassment. The Town recognizes the right of all employees to be treated with respect and dignity.~~

~~(2) Sexual harassment is a form of behavior which adversely affects the employment relationship. It is prohibited by state and federal laws and will not be tolerated by the Town. The Town condemns and prohibits sexual harassment by any employee.~~

~~(3) Sexual harassment does not refer to purely voluntary social activities. It refers to behavior which is not welcomed by the employee, which is personally offensive to him or her, and which undermines morale and/or interferes with the ability of the employee to work effectively. Sexual harassment, as defined by the law, may, depending upon the circumstances, include unwelcome actions such as:~~

~~(a) Verbal abuse of a sexual nature, use of sexually degrading words, or jokes or language of a sexual nature;~~

~~(b) Physical contact, including patting, pinching or repeated brushing against another's body;~~

~~(c) Demands or requests for sexual favors accompanied by implied or overt promises of preferential treatment or threats concerning an individual's status as an employee;~~

~~(d) Continued expressions of sexual interest after being informed that the interest is unwelcome;~~

~~(e) Assaults or molestations;~~

~~(f) The posting or distribution of sexually suggestive pictures or other materials.~~

~~(4) Sexual harassment is not limited to prohibit behavior by a male employee toward a female employee. Sexual harassment can occur in a variety of circumstances. Here are some things to remember:~~

~~(a) A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser;~~

~~(b) The harasser does not have to be the victim's supervisor.~~

~~(c) The victim does not have to be the opposite sex from the harasser;~~

~~(d) The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the employee or interferes with the employee's work performance.~~

~~B. The rule.~~

~~(1) It is, therefore, against the policy of the Town for any employee or person with whom a Town employee comes in contact on the job, male or female, to harass a Town employee sexually, that is, by making unwelcome sexual advances, request for sexual favors, or other uninvited verbal or physical conduct of a sexual nature when:~~

~~(a) Submission to such conduct is made either implicitly or explicitly as a term or condition of an employee's employment;~~

~~(b) Submission to, or rejection of, such conduct by an individual is made the basis for employment decisions affecting the employee;~~

~~(c) Such conduct has the purpose or effect of interfering with the individual's work performance;~~

~~(d) A hostile or intimidating work environment is created for the employee.~~

~~(2) It is also against the policy of the Town for an employee to sexually harass any person with whom the employee comes in contact on the job.~~

~~C. Employee responsibilities. Each employee is personally responsible for:~~

~~(1) Ensuring that his/her conduct does not sexually harass any other employee or person with whom the employee comes in contact on the job, such as an outside vendor;~~

~~(2) Cooperating in any investigation of alleged sexual harassment by providing any information he/she possesses concerning the matter being investigated;~~

~~(3) Actively participating in efforts to prevent and eliminate sexual harassment and to maintain a working environment free from such discrimination;~~

~~(4) Ensuring that an employee who files a sexual harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.~~

~~D. Retaliation. Retaliation against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of a sexual harassment complaint is against the law and will not be tolerated by the Town.~~

~~E. Violation of policy. Any employee violating this policy will be subject to appropriate discipline, including possible discharge by the Town.~~

~~F. Procedures for complaint.~~

~~(1) Complaint.~~

~~(a) The Town has designated a Sexual Harassment Grievance Officer. The Sexual Harassment Grievance Officers are Town Administrator and Assistant to the Town Administrator, who can be reached at the Town Hall, 32 Main Street, Ashburnham, MA 01430; telephone number 978-827-4100.~~

~~(b) If an employee believes he or she has been subject to sexual harassment, the employee should initiate a complaint by contacting the Sexual Harassment Grievance Officer as soon as possible. The employee should file the complaint promptly following the incident of~~

~~alleged harassment. The employee should be aware that the longer the period of time between the event giving rise to the complaint and the filing, the more difficult it will be for the Sexual Harassment Grievance Officer to reconstruct what occurred. The employee may be requested to write out his or her complaint to document the charge.~~

~~(c) If an employee prefers to discuss a possible sexual harassment problem with his or her supervisor, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting sexual harassment and may go directly to the Grievance Officer.~~

~~(2) Investigation. On receiving the complaint, the Sexual Harassment Grievance Officer will promptly have a preliminary investigation made into the matter. If after the completion of this preliminary investigation it is determined that there is reasonable cause for finding a violation of this policy, the Town will notify the complainant and the charged employee of the finding orally. Additional investigation will be made to the extent appropriate in each case. This process will be confidential to the extent consistent with an effective investigation.~~

~~(3) Decision.~~

~~(a) After the response of the charged employee has been made, any further investigation, which may be warranted, has been carried out, the Town will make a final decision. If the Town finds that the allegations in the complaint have been established by the investigation, the Town will initiate discipline of the charged employee. Discipline will be appropriate to the offense and employees involved, and may include discharge.~~

~~(b) The complainant will be notified of the disposition of the investigation.~~

~~G. State and federal agencies. The Massachusetts Commission Against Discrimination ("MCAD") located at One Ashburton Place, Boston and 436 Dwight Street, Springfield, is responsible for enforcing the Massachusetts sexual harassment law, and the U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the federal law prohibiting sexual harassment. The EEOC is located at One Congress Street, Room 1001, Boston. They may be contacted at the above addresses.~~

~~§ 60-5.4 **Smoking.**~~

~~A. The smoking or other use of any and all tobacco products is prohibited in all Town buildings.~~

~~B. Public safety employees. Effective October 5, 1988, the smoking prohibition rule applies to newly appointed public safety employees in state and local government: "No person appointed to a covered position (uniformed member of the police and fire department) shall, subsequent to appointment, smoke any tobacco product at any time during their employment in any position covered by MGL c. 32, § 94." This prohibition includes all time off the job as well as all time on the job. Reference Chapter 697 and 759 of the Acts of 1987.~~

~~§ 60-5.5 **Wage garnishments.**~~

~~Garnishment action against an employee's wages or salary is permitted by law in Massachusetts. Federal laws also permit the preferential attachment of wages by the Internal Revenue Service for delinquent federal taxes and child support before other garnishments. When notice of~~

~~garnishment, levy or attachment action taken or to be taken against any employee is first brought to the attention of the Town, the Town Administrator shall verify with the employee of the garnishment, levy or attachment. The Town recognizes all applicable restrictions, rules, and laws regarding the garnishment or attachment of an employee's wages.~~

~~§ 60-5.6 **Solicitation of employees.**~~
~~All solicitations of employees, either by Town employees or others, require prior written approval by the Town Administrator.~~

~~§ 60-5.7 **Uniforms and special clothing.**~~
~~Upon determination of the Town Administrator or appointing authority, employees may be required to wear uniforms, protective gear, or other types of special clothing; however, the Town will provide the uniforms, protective gear, special clothing, or a clothing allowance for those employees whose work requires that special clothing be worn. The Town reserves the right to determine what uniforms are to be worn, who will wear uniforms, what protective gear is required, and how such gear will be worn or used. At the termination of employment, the Town requires that all uniforms and protective gear be returned.~~

~~§ 60-5.8 **Safety.**~~
~~It is the policy of the Town of Ashburnham that every employee is entitled to work under the safest possible conditions in all occupations. Every reasonable effort will be made to provide and maintain a safe and healthy workplace, safe equipment, proper materials and to establish and insist upon safe methods and practices at all times.~~

~~A. Reporting. Accidents which injure people, damage machinery or equipment and destroy materials or property cause needless suffering, inconvenience and expense. Any incidents resulting in personal injury or property damage shall be reported immediately to the appropriate department head or designee, who shall immediately report it to the Town Administrator. Any employee who notices an unsafe working condition shall immediately report such condition to their supervisor.~~

~~B. Safety rules directive in nature. Any safety rules and regulations developed by the Town Administrator or appointing authority are to be considered directive in nature and applicable to all employees.~~

~~C. Employee responsibility. It is the basic responsibility of everyone to make safety realization a concern. Employees shall observe the rules of conduct and safety and properly use the safety equipment provided.~~

~~§ 60-5.9 **Vehicles.**~~
~~A. Use of personal vehicles. No employee shall use a personal vehicle on official Town business unless the department head first authorizes such use. Use of personal vehicles for official business shall be compensated for at the approved mileage rate established by the Town Administrator according to IRS guidelines. Reimbursement for mileage, tolls, and parking shall be submitted in writing.~~

~~B. Town vehicles.~~

~~(1) The Town provides assigned vehicles to specific position classifications to be used by employees so classified to assist them in fulfilling their position responsibility. Town~~

~~vehicles shall be used for municipal business only. Employees using Town vehicles shall possess a current state driver's license and shall be responsible for safe and proper driving and regular maintenance.~~

~~(2) Personal use of Town vehicles is prohibited. In certain specific cases requiring emergency response, the Town Administrator may approve the use of a Town vehicle for purposes of commuting. Normally, the following Town vehicles are exempt from income tax as they are considered qualified, nonpersonal use:~~

~~(a) Public Safety (on-call).~~

~~(b) Police and fire vehicles (marked and unmarked).~~

~~(c) Ambulances, dump trucks, utility trucks (for emergencies).~~

~~(d) School buses.~~

~~(3) Tax value. Other Town vehicles are considered nonexempt and the noncash fringe benefit value for commuting to and from work must be estimated by the Town and included in the employee's year-end gross income (W-2 form) for income tax purposes. The Town accounts for the commuting use by including an appropriate amount as specified in the treasury regulations. The employee may be required to substantiate the nontaxable use of assigned vehicle. For nonexempt Town vehicles used for commuting purposes, the employee shall be responsible for recording daily mileage use and submitting such information to the Town monthly. The Town shall be responsible for estimating and completing social security payroll deductions during the year and including an estimated benefit value in the employee's W-2 form based upon the prevailing rate for actual annual personal commuting use. The Town shall exclude all of the employee's days out of work during the year, including holidays, vacation, sick days and personal days.~~

~~(4) Use of alcohol/illegal drugs. Use of alcohol or illegal drugs while driving Town vehicles is prohibited.~~

~~Article VI~~
~~Employee Benefits~~

~~§ 60-6.0 **General.**~~
~~The Town will evaluate all employee benefits on a level-of-benefit basis and not on an individual-benefit basis in determining a fair and competitive benefits program.~~

~~§ 60-6.1 **Group insurance.**~~
~~A. The Town provides the following group insurance coverage for full-time and other eligible part-time employees:~~

~~(1) Group medical and life insurance is offered to eligible employees and their families. Such plans are contributory, with the Town paying 75% and the employee paying 25% of the medical insurance, and the Town and employee each paying 50% of the life insurance.~~

~~(2) Group short-term and long-term disability insurance is offered to eligible employees, with the Town paying 100% of the cost.~~

~~B. Details of insurance coverage are described in separate brochures.~~

~~C. Additional insurance. The Town may offer additional life, dental or disability insurance to employees.~~

~~§ 60-6.2 **Worcester Regional Retirement System.**~~

~~A. All Town employees who work 20 hours or more per week throughout the year (1,040 hours per year) shall join the Worcester Regional Retirement System. Membership is optional for elected officials. Employees shall be excluded if they are over the age of 65 or are receiving an allowance for retirement or disability under any retirement system for public employees in Massachusetts, or are members of the Federal Civil Service Retirement System.~~

~~B. Employee contributions shall be based upon the date of membership into the system.~~

~~Membership Date~~	~~Percentage of Gross Regular Compensation~~
~~Prior to Jan. 1, 1975~~	~~5%~~
~~Jan. 1, 1975 — Dec. 31, 1983~~	~~7%~~
~~Jan. 1, 1984 — June 30, 1996~~	~~8%~~
~~Jan. 1, 1996 and after~~	~~9%~~

~~C. If membership began on or after January 1, 1979 and the annual rate of regular compensation is $30,000 or more, an additional 2% will be withheld for that portion of the regular rate of compensation which is in excess of $30,000.~~

~~§ 60-6.3 **Training.**~~

~~The Town considers employee development an integral part of each department head's responsibility. The objective of this policy is to provide each employee with long-term personal growth opportunities and the Town with qualified and promotable individuals.~~

~~A. Cost paid by Town of Ashburnham. Employees may request approval of their department head and department heads may request approval of the Town Administrator to enroll in job-related seminars and other educational programs designed to meet specific development objectives. All costs for this training are paid by the Town.~~

~~B. Tuition reimbursement.~~

~~(1) The Town subscribes to the principle that every employee should be given equal~~

~~opportunity to continue educational activities.~~

~~(2) The tuition reimbursement program shall be available to all full-time employees. Educational assistance is available for job-related courses taken at an accredited school or college. Each employee shall be reimbursed as follows:~~

~~(a) "A" grade or equivalent: 100%.~~

~~(b) "B" grade or equivalent: 75%.~~

~~(c) "C" grade or pass in a pass/fail system or equivalent: 50%.~~

~~for all tuition, registration fees, books, and any related expenses up to a total of $1,000 per fiscal year after submitting written documentation from the institution regarding expenses paid and grade received. Such requests shall require the written approval of the Town Administrator and department head in advance of course registration.~~

~~§ 60-6.4 **Permanent part-time and temporary/seasonal employment benefits.**~~

~~A. Permanent part-time employees as defined in § **60-1.4** of this bylaw, and who have satisfactorily completed their probationary period, are eligible for the following benefits:~~

~~(1) Pro-rated pay for holidays as established in this bylaw.~~

~~(2) Pro-rated vacation pay based upon the vacation schedule contained in this bylaw.~~

~~(3) Pro-rated sick pay as established in this bylaw.~~

~~(4) Pro-rated personal days as established in this bylaw.~~

~~(5) Pro-rated funeral leave as established in this bylaw.~~

~~(6) Pro-rated paid leave of absence as established in this bylaw.~~

~~(7) Pro-rated maternity leave as established in this bylaw.~~

~~(8) Pro-rated military leave as established in this bylaw.~~

~~(9) Tuition reimbursement as established in this bylaw.~~

~~B. Temporary/seasonal employment benefits. Temporary or seasonal employees as defined in § **60-1.4** are not eligible for benefits noted in this bylaw, except that a temporary/seasonal employee who has completed the probationary period and who is scheduled to work more than 1,200 hours in a single fiscal year is eligible for six days of paid vacation, one day of paid personal time, and paid holidays that fall within his/her regular work schedule. A day, for purposes of this section, shall be defined as the employee's regular, average work day.~~

~~§ 60-6.5 **Longevity.**~~

~~In recognition of their value to the Town, employees who have completed defined terms of service with the Town shall receive an annual, lump-sum longevity payment on their employment anniversary date in accordance with the following schedule:~~

~~A. Completion of five years service: $250.~~

~~B. Completion of 10 years service: $500.~~

~~C. Completion of 15 years service: $750.~~

~~D. Completion of 20 years service: $1,000.~~

~~Article VII~~
~~**Personnel Records**~~

~~§ 60-7.1 **Maintenance of and access to personnel records.**~~
~~The Town Administrator or an appropriately designated representative shall be responsible for the maintenance of personnel records for each employee, including the original application for employment, the results of all tests and examinations taken to demonstrate qualifications, history of salary, attendance and leave records, commendations, record of disciplinary actions, training records, and any other records pertinent to the employee's service. Employees are responsible for notifying their supervisor of any change in their personal status, including address changes, telephone number, dependents, marital status, or name change. No departmental personnel records are authorized, it being the intent of this bylaw that there shall be one and only one official personnel file for each employee.~~

~~A. Access to employee personnel records. All employees, upon request to the Town Administrator, shall have access to their own personnel records. Department heads shall also have access to the personnel records of their employees only as is necessary in the performance of their duties. No other employees, officers, or officials of the Town, except as may be designated by the Town Administrator and necessary to the conduct of Town affairs, shall have access to an employee's personnel record. Requests for information from parties outside Town government, whether for active or terminated employees, shall contain no individually identifiable information without the written authorization of such employee, except where the information is limited to the verification of dates of employment and the employee's title or position, and wage or salary, where information is given pursuant to proper subpoena, a government audit, or an apparent medical emergency.~~

~~B. Employee attendance/payroll sheets.~~

~~(1) Federal and state laws require the Town to keep accurate records of time worked as evidence that the Town is conforming with the law. Any misstatement of the time worked is a violation of law. Each nonexempt employee is required to fill in or punch in the number of hours worked. At the end of each workday or pay period, the department head shall sign the attendance/payroll sheets to approve the hours worked. Exempt employees shall not complete time sheets but shall allocate their hours worked each week by work/leave category. All forms for recording hours worked by nonexempt employees, and work/leave categories for exempt employees, shall be standardized on forms provided by the Town Treasurer.~~

~~(2) Employees are forbidden to punch in/out or sign in/out for another employee. Violation of this rule shall be grounds for dismissal.~~

~~§ 60-7.2 **Injury reports.**~~
~~If an employee is injured while working for the Town, such employee shall immediately inform the department head on forms provided by the Town for this purpose. It is important that every injury be reported. Worker's compensation laws provide benefits for employees injured on the~~

~~job. Medical expenses and the amount of compensation to which an employee is entitled for lost time are set by state law. All injuries must be reported immediately in order that necessary reports may be completed. If medical attention for the injury is required, a medical statement shall be required before the employee returns to work.~~

~~§ 60-7.3 **Records retention.**~~
~~The following personnel and payroll records are to be retained by the Town:~~

~~A. Employee applications, resumes.~~

~~B. Employment list, exams.~~

~~C. Employee attendance sheets, overtime records.~~

~~D. Employee files, including performance evaluations.~~

~~Article VIII~~
~~**Employee Status Change**~~

~~§ 60-8.1 **Promotion policy.**~~
~~The Town encourages employees to develop skills, attain greater knowledge of their work, and make known their qualifications for promotion to more responsible and difficult positions. No supervisor shall deny an employee permission to apply for a promotional opportunity in any Town office or department. Promotion to a higher-level position shall be based upon merit and qualifications.~~

~~§ 60-8.2 **Transfer policy.**~~
~~Transfer of an employee from one position to another without change in pay grade may occur when:~~

~~A. The employee meets the qualification requirements.~~

~~B. It is in the best interests of the Town.~~

~~C. Further training and development of an employee in another position would be beneficial to the future staffing potential of the Town.~~

~~§ 60-8.3 **Demotion policy.**~~
~~An employee may be demoted to a position of a lower pay grade, for which that employee is qualified, for any of the following reasons:~~

~~A. When an employee would otherwise be laid off because the position is being abolished, the position is reclassified to a lower grade, lack of funds, or because of the return to work from authorized leave of another employee to such position in accordance with these rules.~~

~~B. When an employee does not possess the necessary qualifications to render satisfactory service in the position held.~~

~~C. When an employee voluntarily requests such demotion.~~

~~§ 60-8.4 **Separations.**~~

~~A. Types of separation.~~

~~(1) All separations of employees from positions in the classified service shall be designated as one of the following types and accomplished in accordance with the manner indicated:~~

~~(a) Resignations.~~

~~(b) Layoff.~~

~~(c) Disability.~~

~~(d) Death.~~

~~(e) Retirement.~~

~~(f) Dismissal (see Article **X**).~~

~~(2) The Town Administrator may grant severance pay to employees who are involuntarily terminated depending upon cause.~~

~~B. Conditions of separation. At the time of separation and prior to final payment, all records, assets, or other items of Town property in the employee's custody shall be transferred to the appropriate department head. In the event of a shortage in the above, an amount representing the value of unreturned property shall be calculated and withheld from the employee's final compensation or collected through other appropriate action.~~

~~C. Payment of earned compensation and leave upon separation. Employees who separate from the Town service in good standing shall receive payment for all earned salary, vacation leave, and accrued sick leave, all in accordance with the appropriate sections of this bylaw, subject to normal deductions and any indebtedness. The Worcester County Retirement Plan administrators shall be notified if the employee is a member.~~

~~D. Resignation. An employee may resign from the Town service in good standing by submitting, in writing, the reasons and the effective date to the department head at least 14 calendar days in advance. The department head may permit a shorter period of notice because of extenuating circumstances. The resignation shall be forwarded to the Town Administrator with a statement by the department head as to the resigned employee's service performance and pertinent information concerning the cause of resignation. Department heads and exempt personnel are required to give 30 days' notice. Failure to comply with this rule may be cause for denying future employment with the Town, as well as the payment of earned compensation as noted in Subsection **C** above.~~

~~E. Layoffs.~~

~~(1) When a position must be discontinued or abolished because of a change in duties, reorganization, lack of work, or lack of funds, the department head shall submit a report to the Town Administrator together with a recommendation as to the employee(s) to be laid off.~~

~~(2) The Town Administrator shall determine the order of layoff of employees on the basis of~~

~~employee performance.~~

~~(3) Regular employees subject to layoff shall be notified in writing not less that one calendar week prior to the effective date, except in cases of emergency over which the Town has no control.~~

~~(4) Employees laid off from work may be eligible for state unemployment compensation. Such employee will be issued an unemployment form upon termination of employment.~~

~~F. Disability. An employee may be separated for a non-job disability when that employee cannot adequately perform the full duties of the position because of physical or mental impairment. Such separations may be initiated by the employee, the Town or an authorized legal representative of either, but in all cases the disability must be supported by medical evidence acceptable to the Town Administrator. The Town may require an examination at the Town's expense to be performed by a physician of its choice. Job-related injuries are subject to the state worker's compensation laws or other appropriate laws.~~

~~G. Death. Separation shall be effective as of the date of the death of an employee. All compensation due shall be paid as soon as possible to the estate of the employee, except for such sums which, by law, may be paid to the surviving spouse.~~

~~H. Retirement. A pension plan, known as the "Worcester Regional Retirement System," is available for employees scheduled to work 20 hours or more per week throughout the year. The plan, including eligibility, is described separately in the retirement system booklet.~~

~~I. Dismissal procedures. If, after remedial disciplinary measures have been implemented, an employee's performance, conduct, or other unsatisfactory behavior does not improve, it may be necessary to discharge the employee. Certain offenses may occur which are of such seriousness that immediate dismissal of an employee may be necessary. The Town Administrator may dismiss an employee upon giving the employee written notice of the reasons for the discharge and the effective date (see Article **X**).~~

~~J. Exit interviews.~~

~~(1) Each separating regular full-time employee shall be interviewed in an exit interview as near as possible to the close of the last day of work, prior to the issuance of the employee's final paycheck.~~

~~(2) The objectives of an exit interview conducted by the department head or the Town Administrator are:~~

~~(a) To identify problems and determine any trends which are developing in a particular department.~~

~~(b) To establish an orderly picture of the real reasons for the termination as seen by the employee.~~

~~(c) To obtain information which will improve screening of job applicants.~~

~~(d) To determine the impact on employees of Town personnel policies and practices.~~

~~(e) To assure that the employee has returned all Town property.~~

~~(f) To insure the greatest possible measure of good will toward the Town on the part of the separating employees.~~

~~(3) Confidential nature. Most exit interviews are of a routine nature. However, occasionally an interview develops information of a confidential nature. Such information shall be kept strictly confidential, except as necessary to protect the interests of the Town. A record shall be made of each interview and a report of the exit interview shall be maintained on file.~~

~~§ 60-8.5 **Unemployment compensation.**~~
~~The Town pays the cost established by the State of Massachusetts to provide unemployment compensation for its employees.~~

~~§ 60-8.6 **Termination information.**~~
~~All information regarding terminating employees must be forwarded promptly to the Town Administrator, including signed letters of resignation.~~

~~§ 60-8.7 **COBRA benefits.**~~
~~As of July 1, 1986, employees and their dependents have a right under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) to continue group health coverage beyond when they normally would have been eligible for coverage under the Town's group plans. Details of all COBRA benefits are contained in the Town's COBRA Plan on file in the office of the Town Treasurer.~~

~~Article IX~~
~~**Leaves of Absence**~~

~~§ 60-9.0 **General policy.**~~
~~"Leave" is defined as any authorized absence during regularly scheduled work hours, which is approved by proper authority. Leave may be authorized with or without pay and shall be granted in accordance with these rules on the basis of the work requirements of the departments and, whenever possible, the personal wishes of the employee.~~

~~§ 60-9.1 **Procedure for requesting leave.**~~
~~All leaves other than holiday, sick or injury leave shall be requested and approved by the Town Administrator for department heads and by department heads for employees that report to them, prior to the taking of leave. In the case of a request for sick leave, employees shall notify the department head. Requests for leave without pay shall be made in writing and recommended by the department head and Town Administrator. An employee shall not be paid for any absence from scheduled working hours unless such absence is approved in advance by the Town Administrator.~~

~~§ 60-9.2 **Leave with pay.**~~
~~A. Holidays. The following 13 holidays for regular full-time and regular part-time employees shall be granted with pay:~~

~~New Year's Day~~

~~Martin Luther King Day~~

~~President's Day~~

~~Patriot's Day~~

~~Memorial Day~~

~~Independence Day~~

~~Labor Day~~

~~Columbus Day~~

~~Veterans' Day~~

~~Thanksgiving Day~~

~~Friday after Thanksgiving Day~~

~~Christmas Day~~

~~1 Floating Holiday~~

~~B. Employees will be paid for the above-listed holidays, provided the following conditions are met:~~

~~(1) The employee must have worked the last scheduled workday prior to and the next scheduled workday after such holiday unless the absences are approved by the Town Administrator or appointing authority.~~

~~(2) If not on leave of absence.~~

~~§ 60-9.3 **Personal leave.**~~
~~All regular employees of all Town departments, excluding the School Department, shall be entitled to personal leave not to exceed a maximum of three days per fiscal year and granted at the start of the fiscal year.~~

~~§ 60-9.4 **Vacation leave.**~~
~~A. All full-time and permanent part-time (20 hours or more per week) employees shall earn annual vacation at their current rate of pay based upon length of service as of their anniversary date.~~

~~B. Vacation pay for hourly employees shall be based upon the normally scheduled work hours.~~

~~C. Vacation earning schedule. All vacation time shall be taken in the anniversary year in which it is earned. The amount of vacation earned shall be in accordance with the following schedule:~~

~~*Completion of one year to completion of five years (15 days/yr)~~

~~Completion of five years to completion of 10 years (21 days/yr)~~

~~Completion of 10 years to completion of 20 years (24 days/yr)~~

~~Completion of 20 years (28 days/yr)~~

~~* New employees with less than one year will be eligible to accrue vacation leave upon completion of their first month of employment at a rate of one day (up to eight hours) pro-rated by scheduled hours worked per week. Employees with less than one year of service at the end of the fiscal year will continue at one day per month until their anniversary date. They will then get pro-rated vacation leave up to June 30 of the fiscal year. On July 1 they will receive their annual vacation leave based on the earning schedule.~~

~~D. Vacation leave may not be accrued beyond the fiscal year in which it is earned unless a written request to rollover unused vacation is made 30 days prior to the anniversary date. Employees shall have the right to roll-over up to five days vacation, but in no event shall vacation rollover in excess of five days be approved. In the event of any separation from Town service (with proper notice, if applicable) the accrued vacation at the time of termination shall be paid.~~

~~E. Payment of salary in lieu of vacation. Because the purpose of a vacation is rest and relaxation, no vacation shall be bought back from an employee in lieu of vacation time without approval of the Town Administrator.~~

~~F. Re-hire employees. Vacation time shall be determined by the length of continuous service. For purposes of computing vacation time, employees who leave the Town's service and are later reinstated shall be considered new employees unless they were separated from Town service by layoff and later rehired.~~

~~G. Holiday celebrated during vacation. Observed holidays established by this bylaw shall not be considered as part of vacation time.~~

~~H. Advanced vacation pay. Employees wishing vacation pay in advance of actual vacation use shall submit the request to their department head, who will notify the Town Administrator in writing of the request. The notification shall be made no later than the Friday before the payroll distribution date on which the employee wishes to receive vacation pay.~~

~~§ 60-9.5 **Sick leave.**~~

~~A. General.~~

~~(1) Regular full-time or permanent part-time (as defined in this bylaw) employees shall be eligible to earn a total not to exceed eight leave days with pay during each calendar year. One sick leave day will be accrued and credited to an employee's account for each month of service on or about the first day of each month of service, not to exceed eight leave days.~~

~~(2) Sick leave shall be used only with the approval of the employee's department head and only for personal illness, personal injury, doctor appointments for employees, spouses, and~~

~~dependents that cannot be scheduled during nonworking hours; and for family emergencies up to a maximum of three days per occurrence. "Family emergencies" are defined as a sudden unanticipated and serious illness or injury of a spouse or dependent, which requires the employee to be absent from work.~~

~~(3) An employee shall, after three consecutive sick days, submit a doctor's certificate stating the nature of the illness or injury and the expected duration. Failure to provide such certificate shall be sufficient to deny further use of sick leave.~~

~~B. Sick leave accrual/buy-back.~~

~~(1) Unused sick leave may not be accrued in excess of eight days, and may only be used for a purpose noted in Subsection **A** above.~~

~~(2) Eligible employees, as of December 1, 2009, will have accrued unused sick time credited to an employee's account, up to 120 days, for 60 days pay at their rate as of December 1, 2009, to be paid upon retirement or death from Town service.~~

~~(3) Employees at their discretion may use time either from their buyback account or sick bank account to supplement any short-term or long-term disability payments not to exceed 100% of regular pay. Time used from the sick bank or buyback accounts will be deducted from any retirement payout option.~~

~~C. Abuse of sick leave. Abuse of sick leave shall be considered sufficient cause for disciplinary action pursuant to Article **X** of this bylaw. Sick leave shall only be used in those situations described in Subsection **A** of this bylaw.~~

~~D. Monday/Friday abuse pattern. Abuse of sick leave shall be automatically established if an employee engages in a "Monday/Friday" use pattern, or has a large number of one- or two-day absences in a single or multiple year, without a valid health-related explanation.~~

~~§ 60-9.6 **Injury leave.**~~
~~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 which occurred while the employee was engaged in the performance of employment duties. Employees of the Town shall be covered by worker's compensation or other statutory provisions and are paid the required amounts due to injuries sustained on the job. For on-the-job injuries that result in lost time, less than five days, the employee's accumulated sick time will be used for all absences. All injuries shall be reported immediately to the supervisor or department head and proper forms completed to qualify for insurance coverage, which is regulated by the state.~~

~~§ 60-9.7 **Civil leave (jury duty).**~~
~~An employee shall be granted leaves of absence, designated as civil leave, for jury or other civic duty requiring the appearance before a court or other public body. Such leave shall only be during that part of the day that such appearance is required. Such employees shall receive their regular salary. Fees received from the court or other sources shall be turned in to the Town. The Town will reimburse employees for parking expenses upon presentation of a receipt. Such paid leave excludes court time as a result of personal activities where the employee is a party to the proceeding.~~

~~§ 60-9.8 **Funeral leave.**~~

~~Regular full-time and permanent part-time employees shall be granted a leave of absence with pay for a period of up to five days when a death has occurred in their immediate family upon request to their department head for attendance at the memorial service and for a period of bereavement. Immediate family shall be defined as mother, father, brother, sister, spouse, child, mother-/father-in-law, or foster parent/child. Funeral leave of up to three days is authorized to attend the memorial service and for a period of bereavement for the death of a sister-/brother-in-law, aunt, uncle, niece, nephew, grandparent or grandchild. Funeral leave of one day is authorized for the death of a cousin. Greater bereavement leave may be taken with approval of the department head. Leave so granted will be charged to the employee's accrued sick leave.~~

~~§ 60-9.9 **Leave of absence with pay.**~~

~~A. Regular full-time employees and permanent part-time employees may request a leave of absence with pay for up to five days by written request to the Town Administrator. Such leave shall be granted not more frequently than once every other fiscal year to allow the employee the opportunity to take care of major personal issues such as marriage, personal property loss, financial transactions, death of a close friend, attending a wedding, graduations, etc. Employees who are granted such leave will be required to make up all time taken, but may do so using a "flexible schedule", subject to the approval of the department head, during the six months following such leave.~~

~~B. Employees requesting a leave of absence shall state in writing the reasons for such request and the time requested. Failure to return to work after the expiration date shall be deemed sufficient reason for terminating employment.~~

~~§ 60-9.10 **Parental leave.**~~

~~A. Maternity leave.~~

~~(1) Paid maternity leave of absence for up to one month shall be granted to a regular full-time or permanent part-time female employee, providing the employee has completed an initial six-month probationary period. The employee must give eight weeks' notice of the expected departure date and a notice of intention to return to work.~~

~~(2) Accrued sick leave benefits shall be provided for maternity leave purposes under the same terms and conditions which apply to other temporary medical disabilities.~~

~~(3) Upon return to work, the employee is entitled to return to the same or a similar position with no reduction in pay or benefits for which she was eligible on the date her leave commenced.~~

~~B. Paternity leave. Paid paternity leave of up to one week shall be granted to a regular full-time or permanent part-time employee following the birth of a child.~~

~~§ 60-9.11 **Military leave.**~~

~~A. Employees of the Town who are members of a reserve unit of the Army, Navy, Marine Corps, Coast Guard, or Air Force of the United States or Massachusetts shall be entitled to 15 days of annual paid military leave to attend training in such a unit. No such employee shall be subjected to any loss or reduction of seniority, or any other benefit to which they would otherwise be entitled. A current copy of the employee's Military ID card will be maintained in his or her personnel file.~~

~~B. Reinstatement.~~

~~(1) Employees who leave the service of the Town for the purpose of entering the Armed Forces of the United States shall be reinstated in their position and duties, provided the employee makes application for return to such service within 90 days after they have received a certificate of satisfactory service from the Armed Forces. The Town Administrator shall certify in writing that such employee is able and qualified to perform the work required and that there is work available. In considering the factor of availability of work, the Town shall replace by the returning employee, any employee, with less service, who was employed for the purpose of filling the position vacated by such returning employee. Any employee returning to the service of the Town shall be credited with the period of such service in the Armed Forces to the same extent as though it had been a part of the term of service to the Town.~~

~~(2) If the laws of the United States or Massachusetts provide for more extensive military leave rights than the provisions herein, the federal laws shall prevail and the greater rights shall be granted.~~

~~§ 60-9.12 **Absence without leave.**~~
~~An absence of an employee from work, including an absence for a whole or part of a day, that is not authorized by a specific grant of leave of absence under the provisions of this bylaw shall be deemed an absence without leave. Any such absence shall be without pay and may be subject to disciplinary action.~~

~~Article X~~
~~**Disciplinary Actions**~~

~~§ 60-10.0 **Discipline.**~~
~~It is the responsibility of all employees to observe the laws, policies, rules and regulations necessary for the proper operation of the departments in the Town of Ashburnham. Department heads are responsible for the proper and efficient operation of their departments and for enforcing Town laws, policies, rules and regulations. Department heads are authorized to apply, with the approval of the Town Administrator, such disciplinary measures as may be necessary. It is the intent of Ashburnham's use of discipline to help an employee understand their mistake(s) and perform at a higher or more acceptable level.~~

~~§ 60-10.1 **Types of disciplinary action.**~~
~~A. The type of disciplinary action will vary with the severity of the situation and may include the following measures: oral and/or written reprimand, disciplinary probation, suspension, discharge.~~

~~B. 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 be sufficient cause for disciplinary actions. The list is illustrative only and shall not be considered to include all reasons for disciplinary action:~~

~~(1) Activities prohibited by the Town bylaws, rules and regulations, Charter, ordinance, or state law.~~

~~(2) Failure to meet prescribed standards of work, morality, or ethics to an extent that makes an employee unsuitable for employment in the Town services.~~

~~(3) Theft, willful misuse, misappropriation, negligence or destruction of Town property, or conversion of Town property for personal use or gain.~~

~~(4) Incompetence, inefficiency, or negligence in the performance of duties.~~

~~(5) Insubordination.~~

~~(6) Unwillingness or inability to perform normal quality and quantity of work.~~

~~(7) Conviction of a criminal offense.~~

~~(8) The use of abusive language toward a superior, another employee, or the public.~~

~~(9) Unsuitable personal conduct.~~

~~(10) Fraudulently obtaining sick or injury leave.~~

~~(11) Unauthorized absences or abuse of leave privileges.~~

~~(12) Habitual use of, sales of, or possession of intoxicating beverages to excess, or abuse of narcotics, drugs, or other controlled substances as to interfere with performance or the efficiency to Town service.~~

~~(13) Use of alcoholic beverages, narcotics, drugs, or other controlled substances while on duty or on Town property.~~

~~(14) Acceptance of any valuable consideration (greater than $50), which was given with the expectation of influencing the employee in the performance of employment duties.~~

~~(15) Falsification of records or use of official position for personal advantage.~~

~~(16) Dishonesty, deliberate untruthfulness, intoxication, recklessness on the job, habitual tardiness, misconduct, and attitudes which constitute an unwholesome influence on other employees.~~

~~(17) Action or conduct affecting or impairing the efficiency of the Town service or which may bring the Town into disrepute.~~

~~§ 60-10.2~~ ~~**Progressive discipline.**~~
~~It is the Town policy to make every effort to avoid unwarranted discharges. However, it is necessary to enforce laws, policies, rules and regulations fairly and consistently. Violations shall result in one or more of the following disciplinary actions according to the frequency, seriousness and circumstances of the offense.~~

~~A. Verbal warning.~~

~~(1) The department head shall review the facts of the alleged violation in private with the employee involved. The employee shall be told what action will be taken if another violation occurs.~~

~~(2) The employer shall keep a record of the verbal warning given by having a copy placed in the employee's personnel file.~~

~~B. Written warning.~~

~~(1) The department head shall review the facts of the alleged violation with the employee involved.~~

~~(2) A record of the meeting, stating the facts that were reviewed with the employee and the action taken or to be taken, shall be prepared by the Department Head. The Department Head shall then review the warning memo with the employee, give a copy to the employee, and send copies to the Town Administrator to be place in the employee's file.~~

~~C. Suspension with or without pay.~~

~~(1) When an employee's behavior or actions are so egregious to require immediate disciplinary action (such as reporting for work improperly clothed, exhibiting altered behavior suggesting substance abuse, gross insubordination, etc.), the department head may order the employee to leave work on an unpaid basis for up to three days.~~

~~(2) When an employee's behavior or actions have previously been the subject of a verbal and/or written warning, or when an employee's actions are sufficiently serious to justify a potential suspension without pay, or when it has been necessary to take immediate action as outlined in Subsection A(1) above, the department head will, within 24 hours of the subject behavior or action, submit to the Town Administrator a memo requesting a formal disciplinary hearing.~~

~~D. Disciplinary hearing.~~

~~(1) When a suspension hearing has been recommended, or in the case of a more serious incident and reduction in pay or termination is considered, the Town Administrator may conduct a disciplinary hearing. If an employee is terminated without a hearing, the employee may, within five days of such termination, request a hearing. If a hearing is held, the employee shall be given a letter outlining the offending actions or behavior to be the subject of the hearing, the date, time and place of the hearing, the employee's right to be represented by counsel, the right to present witnesses in their own behalf and the right to cross-examine witnesses presented against them. At least five days shall be allowed between the notice of hearing and the hearing itself. The Town Administrator shall have the authority to compel any Town employee to attend the hearing and to be questioned. Following the hearing, within 10 days the Town Administrator will decide what action is to be taken, from the following list:~~

~~(a) Dismiss all charges;~~

~~(b) Uphold, amend or rescind any earlier unpaid suspension imposed by the department head;~~

~~(c) Demote the employee to a lower paid position; or~~

~~(d) Terminate the employee.~~

~~(2) The Town Administrator's decision will be transmitted to the employee via first class mail,~~

~~explaining the decision made and the reasons therefor. A copy of the letter and any related material shall be placed in the employee's personnel file. The Town Administrator's decision shall be final. In the event a dismissal, suspension or any other disciplinary action by the Town Administrator shall cause legal proceedings against the Town, further procedures will be at the approval of the Board of Selectmen according to the Town's Charter, Section 10(k).~~

(Requested by the Select Board)

Brief Explanation: *Delete Personnel Bylaw and replace with a policy in order to update more changes in regulations more efficiently.*

ARTICLE 29

To see if the town will vote to transfer from free cash or other available funds the sum of $126,000 to complete the plans and permitting for the Lake Watatic dam or act in relation thereto.

Brief Explanation: *Citizens Petition*

And you are hereby directed to serve this warrant in accordance with the provisions of Section 3, Chapter II of the Town By-Laws by posting attested copies thereof as therein provided.

Hereof fail not and make do return of this Warrant with your doings thereon, to the Town Clerk on or before the said day and hour of meeting.

R. Eldridge Meissner
Rosemarie Eldridge Meissner, Chairman

Leo Janssens II
Leo Janssens II, Clerk

Bill Johnson
Bill Johnson, Member

A True Copy, Attest:

Christopher W. Carroll 4/20/23
Constable Date