

Chapter 31

PERSONNEL

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[HISTORY: Adopted 4-30-1982 ATM, Art. 9; amended in its entirety 4-30-1999 ATM, Art. 17. Amendments noted where applicable.]

GENERAL REFERENCES

Committees and Commissions — See Ch. 14.

§ 31-1. Title; statutory authority.

This chapter shall be known and cited as the "Personnel Bylaws" and is hereby adopted pursuant to the provisions of MGL c. 41, § 108A.

§ 31-2. Disclaimers.

- A. All individuals employed by the Town are employed "at will," and the employment relationship may be terminated by either party at any time with or without cause and with or without notice.
- B. Only the Board of Selectmen is authorized to create an employment contract, and that a signed and written agreement is required to do so. The final interpretation of the provisions of the Personnel Bylaws is the exclusive responsibility of the Board of Selectmen.

- C. The provisions of the Personnel Bylaws, developed or disseminated by the Town, are designed and intended to provide guidance and information and do not create an employment contract or other employment obligation for the Town.
- D. The Personnel Bylaws of the Town of Sunderland summarize the current benefits plans maintained by the Town. If any questions arise regarding the interpretation of these plans, the answers will be determined by reference to the actual plan documents, policies or governing statutes rather than the summaries contained in these Bylaws.

§ 31-3. Nonharassment policy.

- A. It is the policy of the Town of Sunderland to prohibit harassment of one (1) employee by another employee or supervisor on any basis, including, but not limited to, race, color, religious creed, national origin, gender, sexual orientation, ancestry, mental or physical disability.
- B. The purpose of this policy is not to regulate the Town's employees' personal morality. Rather, it is to assure that, in the workplace, no employee harasses another on any of these bases.
- C. While it is not easy to define precisely what any of these bases are, they certainly include slurs, epithets, threats, derogatory comments or visual depiction, unwelcome jokes, teasing, sexual advances, requests for sexual favors and other similar verbal or physical contact.
- D. Any employee who feels that he/she is a victim of harassment should immediately follow the procedures set forth in the Town of Sunderland Anti-Harassment Policy and Complaint Procedures. Violations of the Anti-Harassment policy will not be permitted and may result in disciplinary action, up to and including termination. [Amended 4-29-2002 ATM, Art. 22; 4-29-2005 ATM, Art. 24]

§ 31-4. Applicability; equal opportunity policy; Personnel Committee.

- A. This chapter shall be applicable to all persons in the service of the Town, except officials elected by popular vote and persons under direction and control of the School Committee, the Town Moderator or the Board of Library Trustees. All persons covered hereby shall be subject to the provisions set forth in this chapter, as determined to be applicable to them by the Personnel Committee hereinafter established. Nothing in this chapter shall be construed to be in conflict with MGL c. 150E, relating to public employee collective bargaining, which shall prevail if there is any conflict.
- B. It shall be the policy of the Town of Sunderland to guarantee equal opportunity to all qualified applicants and to all employees with respect to initial hiring, advancement, compensation and general working conditions, without regard to race, color, religious creed, national origin, gender, sexual orientation, ancestry, mental or physical condition.
- C. The Board of Selectmen shall appoint a Personnel Committee to assist in administering the Town's personnel policies and procedures.

- (1) The Committee shall consist of the following six (6) members:
 - (a) Two (2) Sunderland residents not in the employ of the Town (voting).
 - (b) One (1) active, classified, permanent Town employee (voting).
 - (c) One (1) representative from the Finance Committee (voting).
 - (d) One (1) member Board of Selectmen (voting).
 - (e) One (1) Town Administrator (nonvoting). [Amended 4-29-2002 ATM, Art. 22]
- (2) The Personnel Committee will meet monthly on a regular basis or as required.
- (3) Each voting member will serve a two-year term and may be appointed to another two-year term.
- (4) The duties of the Personnel Committee are to:
 - (a) Assist in administering the Town Personnel Bylaws and submit recommendations to the Board of Selectmen for approval.
 - (b) Review various personnel requests from Town departments, including but not limited to new or revised position descriptions and classifications, promotional and special salary increases, leaves of absence, interpretations of the Town's Personnel Code, policy revisions, salary and benefit surveys and improvements and other personnel matters.
 - (c) Hear employees' complaints and submit recommended resolutions to the Board of Selectmen.
 - (d) Participate in all screening committees for new applicants; member(s) to be designated by the Committee.

§ 31-5. Definitions. [Amended 4-27-2007 ATM, Art. 22]

- A. The following words and phrases, whenever used in this chapter, shall be defined as indicated below, unless the context clearly requires otherwise:

APPOINTING AUTHORITY — The appointing authorities for Town, fire, school and library personnel, as defined in MGL c. 41, c. 48, § 42, c.71 and c.78.

BOARD — The Board of Selectmen.

DEPARTMENT — An operating unit of Town government funded through one (1) or more budget categories and under the supervision of a Town Board.

DEPARTMENT HEAD — The employee responsible for the administration and operation of a Town department, who reports directly to the Board of Selectmen, or appointing authority.

HIRING — The appointment of a person into a position in the service of the Town. Hiring shall be of the following types: regular full-time, regular part-time, temporary and non-benefited.

IMMEDIATE FAMILY — Included are the employee's spouse, children, parents, stepchildren, stepparents, brothers, sisters, mother-in-law, father-in-law, grandparents, brother-in-law or sister-in-law.

LAYOFF — The removal of an employee because of lack of work, insufficient funding, or other causes which do not negatively reflect on an employee's work performance. Layoff shall not be considered as disciplinary in nature. Any laid-off employee returning to work needs to be reappointed by the Selectmen, or appointing authority.

PERSONAL LEAVE — An authorized period of absence from work, without pay if longer than three days, for regular employees, and approved by the Board of Selectmen, to take care of personal business. The department head may approve the leave if not more than three days are required.

TOWN — The Town of Sunderland.

TRANSFER — The movement of an employee from one (1) position to another equal or similar position in the Town organization.

B. Position type:

ESTABLISHED POSITION — A position for which there is a corresponding position description approved by the Board of Selectmen or appointing authority.

REGULAR POSITION — An established benefited position in the service of the Town for which there is an expectation of need for an uninterrupted indefinite period, and for which an employee shall receive holiday pay, vacation, sick and other leave, based on workweek schedule and be eligible to participate in the fringe benefits programs offered by the Town.

TEMPORARY POSITION — An established position in the service of the Town which requires the service of an individual for a period less than one thousand forty (1,040) hours in a single fiscal year. The term "temporary position," whenever used in this chapter, shall mean "temporary or seasonal position."

C. Employee type:

EMPLOYEE, NON-BENEFITED — An employee who has been hired into a temporary position or who has been hired into an established position that normally requires less than one thousand forty (1,040) hours in a single fiscal year.

EMPLOYEE, REGULAR — An employee who has been hired into an established benefited position that normally requires a minimum of twenty (20) scheduled hours per week unless otherwise determined by the Board of Selectmen or appointing authority.

EMPLOYEE, TEMPORARY — An employee who has been hired into a temporary or seasonal position in the service of the Town as defined, or an employee who has been hired into an established position for a period less than one thousand forty (1,040) hours

in a single fiscal year. The term "temporary employee," whenever used in this chapter, shall mean temporary or seasonal employee.

§ 31-6. Workweek.

- A. Because of the varied nature of the Town's business, employee work schedules may vary depending on the job. The normal business hours are described in each employee's Terms of Employment. Employees should check with the department head if they have any questions on hours of work.
- B. For regular full-time employees, the normal workweek shall be 40 hours unless otherwise determined by the Board of Selectmen or appointing authority. The normal workweek for regular part-time and non-benefited employees and public safety personnel (fire and police) shall be arranged by the Board of Selectmen or appointing authority. The workweek ends on Friday. [Amended 4-27-2007 ATM, Art. 23]

§ 31-7. Overtime.

- A. There may be times when an employee will need to work overtime so that the Town may successfully meet the needs of the citizens of Sunderland. All overtime for employees must be approved in advance by the department head. All overtime for department heads must be approved by the Town Administrator. [Amended 4-29-2002 ATM, Art. 22]
- B. Hourly employees will be paid an overtime rate for hours worked over forty (40) in a week, consistent with the Federal Fair Labor Standards Act and state statutes.
- C. Only actual hours worked, legal holidays, earned vacation hours and earned personal hours count towards computing weekly overtime. [Amended 4-27-2001 ATM, Art. 27; 4-28-2006 ATM, Art. 22]

§ 31-8. Attendance and punctuality.

- A. Attendance and punctuality are important factors for an employee's success within the Town. All employees work as a team, and this requires that each person be in the right place at the right time.
- B. If an employee is going to be late for work or absent, the employee must notify the department head or Town Administrator as soon as possible but before the start of the workday. [Amended 4-29-2002 ATM, Art. 22]
- C. If an employee is absent for five work days without notifying the Town, it is assumed that the employee has voluntarily abandoned his/her position with the Town, and the employee may be discharged.

§ 31-9. Solicitation and distribution.

- A. Employee distribution of literature, handbills or other printed materials in work areas is prohibited at all times.

- B. Trespassing, soliciting or distribution of literature by nonemployees in work areas is prohibited at all times.

§ 31-10. Changes in personal data.

- A. The Town needs to maintain up-to-date information about its employees so that it will be possible to aid you and/or your family in matters of personal emergency.
- B. Changes in name, address, telephone number, marital status, number of dependents or changes in next of kin and/or beneficiaries should be given to the Town Treasurer.

§ 31-11. Protecting Town information. [Amended 4-29-2002 ATM, Art. 22; 4-27-2007 ATM, Art. 23]

Protecting the Town's information and the privacy rights of its citizens is the responsibility of every employee, and all employees share a common interest in making sure information is not improperly or accidentally disclosed. Pursuant to MGL c. 268A, § 23, no employee shall improperly disclose confidential information acquired by him/her in the course of his/her official duties, nor use such information to further his/her personal interest. Any question as to whether Town information is subject to disclosure should be discussed with the Town Administrator. Violations of this section may result in disciplinary action up to and including termination.

§ 31-12. Town property. [Amended 4-29-2002 ATM, Art. 22; 4-27-2007 ATM, Art. 23; 4-29-2011 ATM, Art. 8]

Employees shall use proper care and discretion when using the Town's buildings, property and equipment. Town property issued to employees shall be used in accordance with employees job-related service to the Town, and shall be returned to the issuing authority upon ceasing use, or upon separation from service to the Town, in accordance with state and local regulations and policies. If Town property is lost, broken or damaged, it must be reported to the department head and the Town Administrator at once. No property may be removed from the Town without the proper authorization of the department head or Town Administrator.

§ 31-13. Town vehicles.

- A. Operators of Town vehicles are responsible for maintaining a current Massachusetts drivers license with the appropriate endorsements and for the safe operation and cleanliness of the vehicle.
- B. Accidents and moving violations involving a Town vehicle must be reported to the department head and Town Administrator immediately. [Amended 4-29-2002 ATM, Art. 22]
- C. Employees are responsible for any moving violation and fines which may result when operating a Town vehicle.

- D. Town vehicles may only be used for job-related travel, and shall transport only authorized Town employees and passengers. Any operation of a Town vehicle outside of the geographical boundaries of the Town requires approval of the department head or Town Administrator. [Amended 4-29-2002 ATM, Art. 22; 4-29-2011 ATM, Art. 8]
- E. The use of seat belts is mandatory for operators and passengers of Town vehicles.

§ 31-14. Personal telephone calls.

It is important for employees to keep the Town's telephone lines free for citizens' calls. Although the occasional use of the Town's telephones for personal emergency may be necessary, routine personal calls are not permitted.

§ 31-15. Vacations. [Amended 4-29-2002 ATM, Art. 21; 4-29-2002 ATM, Art. 22; 4-27-2012 ATM, Art. 7]

- A. A regular, full-time employee with one (1) year or more of service will receive two (2) weeks of paid vacation. Regular, full-time employees with five (5) years or more of service will receive three (3) weeks of paid vacation. Regular, full-time employees with ten (10) years or more of service will receive four (4) weeks of paid vacation. Regular, full-time employees with twenty (20) years or more of service will receive five (5) weeks of paid vacation. All vacation leave must be approved and scheduled in advance with the department head and/or the Town Administrator.
- B. Regular part-time employees who work twenty (20) or more hours per week for the Town shall receive vacation based upon the number of hours regularly worked per week.
- C. Vacation pay is to be computed retroactively for the time worked during the year if an employee terminates employment for any reason other than a discharge for wrongdoing during any given year after completing one (1) year of service to the Town. Employees terminated for wrongdoing shall not receive any payment for unused vacation.
- D. Vacation accrual will be computed upon an employee's completion of one (1) year of service to the Town according to the date of hire. At the completion of the employee's first year of service, vacation leave shall further accrue on a pro-rated basis for the remaining weeks in that fiscal year. Thereafter, vacation leave shall be accrued and taken on a fiscal year basis. Vacation leave may be taken in the year earned or carried over to the next year, except that no more than two weeks of earned vacation may be carried over at any time. Vacation leave shall not be granted in advance of being earned.

§ 31-16. Sick leave.

- A. Regular full-time employees will have up to twelve (12) days of paid sick leave per year, which shall be accrued at the rate of one (1) day per month. Sick leave shall be calculated on a fiscal year basis. Sick leave may be accumulated up to a limit of seventy-five (75) workdays. If an employee is going to be late for work, absent or leave work early due to illness, the employee must notify the department head or Town Administrator as soon as possible on or before that workday. If an employee is out sick

more than three (3) consecutive days or the department head believes the employee is abusing sick leave, a doctor's letter which includes a specific diagnosis and prognosis may be required to be furnished to the Board of Selectmen in order for the employee to be eligible for sick leave pay under this program. [Amended 4-28-2008 ATM, Art. 27]

- B. Regular part-time employees who work at least twenty (20) hours in a given week shall be eligible for prorated paid sick leave based upon the above section. [Amended 4-28-2008 ATM, Art. 27]
- C. Additional sick leave above the specified limits may be requested in writing through the Personnel Committee to the Board of Selectmen for its approval, in accordance with the Town's Sick Leave Bank policy. [Amended 4-29-2011 ATM, Art. 8]

§ 31-17. Leaves of absence.

- A. Under special circumstances, an employee with one (1) year of employment may request, in writing, an authorized leave of absence without pay from the Board of Selectmen. While on an authorized leave of absence, the employee will not be eligible for any employment related benefits. The Town will make reasonable efforts to return the employee to the same or similar job as held prior to the leave, subject to staffing and business requirements. Leaves will not exceed one (1) year.
- B. An employee who is absent from work without permission for a period of more than one (1) week shall be considered to be on an unauthorized leave of absence and subject to immediate termination.

§ 31-18. Federal Family and Medical Leave Act (FMLA). [Amended 4-29-2002 ATM, Art. 22; 4-29-2011 ATM, Art. 8]

- A. The FMLA allows eligible employees to take up to twelve (12) workweeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons, or for any qualifying military family leave entitlements as defined in the FMLA. To be eligible for leave under the Act, the employee must have worked for the Town for at least twelve (12) months and for at least one thousand two hundred fifty (1,250) hours in the past twelve (12) months.
- B. Eligible employees may take leave under the Act for any of the following reasons:
 - (1) The birth of your child and to care for such child;
 - (2) The placement of a child with you for adoption or foster care, and to care for the newly placed son or daughter;
 - (3) To care for a spouse, child, or parent (covered relations) with a serious health condition;
 - (4) Your own serious health condition that renders you unable to perform an essential function of your position;

- (5) For qualifying exigencies defined in the FMLA arising from your spouse, child or parent being on active duty or being called to active duty status as a member of the National Guard or Reserves in support of a contingency operation;
 - (6) To care for your spouse, child, parent or next of kin who is a covered service member with a serious injury or illness, as defined in the FMLA.
- C. If you request leave under the Act because of a birth, adoption or foster care placement of a child or to care for a covered relation with a serious health condition, any accrued paid vacation, or personal days must be used first as part of your leave.
 - D. If you request leave under the Act because of your own serious health condition, any accrued paid vacation, personal days or sick leave must be used first as part of your leave.
 - E. If you request leave under the Act to care for a covered service member with a serious injury or illness as defined in the FMLA, you may be allowed to take up to twenty-six (26) workweeks of job-protected leave in a single 12-month period.
 - F. The substitution of paid leave time for unpaid leave time does not extend the twelve-week leave period. During leave approved under the Act, the Town will maintain your health benefits under the same terms and conditions applicable to employees not on leave. If paid leave is substituted for unpaid leave, the Town will deduct your portion of the health plan premium as a regular payroll deduction. If your leave is unpaid; you must pay your portion of the premium by making arrangements with the Town Treasurer.
 - G. If you elect not to return to work at the end of the leave for at least thirty (30) calendar days, you will be required to reimburse the Town for the cost of the premiums paid by the Town for maintaining coverage during your unpaid leave, unless you cannot return to work because of a serious health condition or because of other circumstances beyond your control.
 - H. The taking of another job while on family or medical leave or any other authorized leave may lead to disciplinary action, up to and including termination.
 - I. An employee seeking FMLA leave is required to provide 30-day advance notice to his/her department head when the need is foreseeable and such notice is practicable. The Town Administrator must be notified of all leave authorized under the Act.

§ 31-19. Holidays. [Amended 4-28-2006 ATM, Art. 23; 4-29-2011 ATM, Art. 8; 4-27-2012 ATM, Art. 7]

- A. The following days shall be recognized as legal holidays within the meaning of this chapter, and regular employees will receive these days off with pay:

New Year's Day
Martin Luther King Day
President's Day

Patriots Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Veteran's Day
Thanksgiving Day
Christmas Day

- B. Holidays which fall on a Saturday will be observed on the preceding Friday. Holidays which fall on Sunday will be observed on the following Monday.
- C. If a holiday falls on any weekday a regular employee is not normally scheduled to work, the holiday will be observed on the employee's preceding workday.
- D. A regular full-time employee or regular part-time employee required to work a holiday will be compensated at the overtime rate of time and one-half for actual hours worked on that holiday in addition to regular holiday pay.

§ 31-20. Other leave.

- A. Bereavement leave. In the event of a death of a regular employee's spouse, child, mother, father, mother-in-law, father-in-law, grandparent, brother, sister, brother-in-law, sister-in-law, the employee will be paid up to a maximum of three (3) consecutive working days, one of which shall be the day of the funeral, at his or her regular rate of pay.
- B. Military leave. A regular full-time employee required to perform military duty in the Armed Forces of the United States, under the provisions of MGL c. 33, § 54, or required to serve an annual tour of duty as a member of a reserve component of the Armed Forces of the United States, shall be granted a military leave of absence and shall be entitled to the difference between the military pay and his regular base weekly wage, for not more than fourteen (14) working days. An employee, upon request, may combine his military leave with his regular vacation leave. An employee must present a copy of his/her military orders to his/her department head.
- C. Personal leave. Regular full-time employees are eligible for a maximum of three (3) paid personal days during the fiscal year. Regular part-time employees shall receive personal leave based upon the number of hours regularly worked per week. A regular full-time or regular part-time employee wishing to take personal leave shall make a request, in writing, to his/her department head at least forty-eight (48) hours in advance, except in emergencies. Personal leave shall not be granted in advance of being earned, is noncumulative and must be used in the fiscal year earned. [Amended 4-29-2002 ATM, Art. 20; 4-27-2007 ATM, Art. 23]
- D. Jury duty leave. An employee of the Town who serves as a grand or traverse juror in Federal Court or in the courts of the commonwealth shall receive from the Town as

salary, the difference between his/her regular rate of pay and the compensation paid to the employee for such jury service, exclusive of any travel or other allowance(s), as outlined in MGL c. 234A, § 48.

§ 31-21. Benefits. [Amended 4-29-2011 ATM, Art. 8]

Regular benefited employees are eligible to participate in the following fringe benefits programs offered by the Town unless otherwise indicated:

- A. Retirement/pension plan, as provided for under MGL c. 32. Eligibility: Regular employees and qualifying elected Town officials are eligible to participate in the retirement program in accordance with MGL c. 32 and Franklin Regional Retirement System regulations.
- B. Health insurance plan, as provided for under MGL c. 32.
 - (1) Eligibility.
 - (a) Regular full-time and regular part-time employees who are regularly scheduled to work twenty (20) hours or more per week.

- (b) Elected Town officials who regularly work at least twenty (20) hours or more per week.
- (2) Cost. The Town offers two (2) basic types of group health insurance plans:
 - (a) Indemnified plan. If the employee selects the indemnified plan, he/she must pay fifty percent (50%) of the monthly premium cost and the Town will contribute a like amount.
 - (b) HMO. If the employee selects HMO coverage, the Board of Selectmen will determine the contribution rate such that not less than twenty-five percent (25%) of the monthly premium is payable by the employee and not less than fifty percent (50%) of the monthly premium is payable by the Town.
- C. Life insurance plan. The Board of Selectmen determine what type of life insurance plan is available to eligible Town employees.
 - (1) Eligibility.
 - (a) Regular full-time and regular part-time employees who are regularly scheduled to work twenty (20) hours or more per week.
 - (b) Elected Town officials who regularly work at least twenty (20) hours or more per week.
 - (2) Cost. The employee must pay fifty percent (50%) of the monthly premium cost and the Town will contribute a like amount.

§ 31-22. COBRA rights.

- A. On April 7, 1986, a federal law was enacted (Public Law 99-272, Title X) requiring that most employers sponsoring group medical plans offer employees and their families the opportunity for temporary extension of medical coverage (called "continuation coverage") at a group rate in certain instances where coverage under the plan would end.
- B. As an employee of the Town, you have the right to choose this continuation coverage if you lose your group medical coverage because of a reduction in your hours of employment or termination of your employment (for any reason other than gross misconduct on your part).
- C. Under the law, the employee or family member (to include divorced spouse or dependent child) has the responsibility to inform the Town Treasurer, the Town's group health plan administrator of a divorce, legal separation or a child losing dependent status under the Town's medical insurance plan.
- D. The Town has the responsibility to notify the insurance company's plan administrator of the employee's death, termination of employment or reduction in hours, or Medicare entitlement.
- E. When the insurance company's plan administrator is notified that one of the above-referenced events has happened, the insurance company's plan administrator will

in turn notify you that you have the right to choose continuation coverage. Under the law, you have at least sixty (60) days from the date you would lose coverage because of the events described above to inform the insurance company's plan administrator that you want continuation coverage.

- F. If you do not choose continuation coverage, your group medical insurance coverage will end.
- G. If you choose continuation coverage, the Town is required to give you coverage which, as of the time coverage is being provided, is identical to the coverage provided under the plan to similarly situated employees or family members. The law requires that you be afforded the opportunity to maintain continuation coverage for thirty-six (36) months unless you lost group medical coverage because of termination of employment or reduction in hours. In that case, the required continuation coverage period is eighteen (18) months.
- H. Under the law, you may have to pay part or all of the premium for your continuation coverage. The law also says that, at the end of the eighteen-month or thirty-six-month continuation coverage period, you may be allowed to enroll in an individual conversion medical plan provided under the Town medical insurance plan.

§ 31-23. New employees.

- A. Employees shall be engaged according to the following procedure:

- (1) For regular full-time positions, by public advertisement and public notice.
- (2) For part-time and temporary positions, by public notice and/or public advertisement.
- (3) Submission of a written application or on a form provided by the Board of Selectmen.
- (4) All new employees will receive a written terms of employment statement.
- (5) A personal interview may be held by the Board of Selectmen, the department head, Personnel Committee members, Finance Committee members, appointed citizens or any combination of the above.

- B. ~~Regular employees are on an introductory period during their first six (6) months of employment. During this period of time, the employee will be able to determine if the new job is suitable for him/her and the department head will have an opportunity to evaluate the employee's work performance.~~ Please see document on last page.

§ 31-24. Grievance procedure.

- A. Process.

- (1) There shall be a grievance procedure available to those employees whose rights, in their opinion, have been prejudiced in any way.

- (2) As used in this section, the word "grievance" shall be construed to mean a dispute between an employee and his/her supervisor or other employee.
- (3) It is understood that if the dispute is with another employee, he/she shall first present the problem to the department head within seven (7) days of the dispute. It is further understood that in the absence of a department head or if one of the employees to the dispute is the department head, the dispute shall be presented to the Personnel Committee within seven (7) days.
- (4) Any employee who has a grievance relative to hours or working conditions with the Town shall first present it to the Personnel Committee within seven (7) days.

B. Appeal.

- (1) An employee who disagrees with the grievance decision of his/her department head or the decision of the Personnel Committee may appeal to the Board of Selectmen as outlined below.
- (2) If the grievance has not been resolved by the department head, or the Personnel Committee, the employee shall notify the Board of Selectmen, in writing, regarding the problem within seven (7) days of the decision or failure to act. The Board of Selectmen will investigate the grievance and present its conclusions, in writing to the employee. Any decision of the Board of Selectmen is final and binding upon the parties and is not subject to any third-party review.

§ 31-25. Standards of conduct.

- A. Each employee has an obligation to observe and follow the Town's policies and to maintain proper standards of conduct at all times. Employees requiring a CDL license will be required to comply with the provisions of the Omnibus Transportation Employee Testing Act of 1991, as amended. If an individual's behavior interferes with the orderly and efficient operation of a department, corrective disciplinary measures will be taken. [Amended 4-27-2001 ATM, Art. 28]
- B. Disciplinary action may include a verbal warning, written warning, suspension without pay and discharge. The appropriate disciplinary action imposed will be determined by the Town. The Town does not guarantee that one form of action will necessarily precede another.
- C. The following misconduct may result in discipline up to and including discharge: flagrant misconduct, violation of the Town's bylaws, policies or safety rules, insubordination, poor attendance, possession, use or sale of alcohol or controlled substances on work premises or during work hours, poor performance, theft or dishonesty, physical harassment, sexual harassment or disrespect toward fellow employees, visitors or other members of the public. These examples are not all inclusive. Discharge decisions are based on an assessment of all relevant factors. [Amended 4-29-2011 ATM, Art. 8]

new: D → Please see document on last page

Voted at the 2015 Annual Town Meeting

Changes to §31 of the Code of Sunderland

§31-5. Definitions.

Add:

PROBATIONARY EMPLOYEE – A regular employee working for the Town during his/her Probationary Period.

PROBATIONARY PERIOD – The first six (6) months of employment following an appointment to a regular position.

§31-23. New Employees.

Delete: B. ~~Regular employees are on an introductory period during their first six (6) months of employment. During this period of time, the employee will be able to determine if the new job is suitable for him/her and the department head will have an opportunity to evaluate the employee's work performance.~~

Add: B. (1) *The first six (6) months of employment following an appointment to a regular position shall be a probationary period. During the probationary period, the employee will be able to determine if the new job is suitable for him/her and the Department Head will have opportunity to evaluate the employee's conduct, performance and work habits. Probationary employees shall have no rights to contest the termination of their employment during the probationary period. An employee separated during the probationary period may be terminated without cause and without notice and shall not have recourse to the Grievance Procedure.*

(2) *Probationary employees shall receive a written appraisal of their performance after the initial ninety (90) days of their employment by their Department Head or their Department Head's designee.*

(3) *Non-benefited part-time, temporary, casual and seasonal employees shall not serve a probationary period, and may be terminated without cause and without notice at any time and shall not have recourse to the Grievance Procedure.*

§31-25. Standards of Conduct

New: D. *Violations and Penalties.*

Penalties for violation or violations of any of the Town's Personnel Bylaws, if not otherwise specified, may involve disciplinary action up to and including termination.