

Article IV

Personnel Ordinance

Article IV: Personnel Ordinance

Section 1. Purpose and Authorization

The purpose of this Ordinance is to assure the establishment of fair and equitable personnel policies for the City of Framingham, together with a system of personnel administration based on merit principles that will guarantee uniform, fair and efficient application of those policies.

All appointments and promotions of municipal officers and employees shall be made on the basis of merit and fitness demonstrated by education, examination, past performance, or by other evidence of competence and suitability. Nothing in this section shall be construed to modify or supersede the basis of appointments or promotions for positions covered by the Civil Service Laws, except to the extent that such matters are delegated by the applicable state agency to the municipality.¹

This Ordinance also recognizes the City's moral and legal obligations to treat fairly and equitably, all of its citizens and employees, whether past, present or future, without regard or consideration to race, sexual orientation, color, religious creed, sex, gender identity, genetics, age, national origin, ancestry, disability, status as an active member of the armed forces of the United States, or any other protected class recognized under state or federal law.

This article is adopted pursuant to the authority contained in G.L. c. 41, §§ 108A and 108C and other provisions of these Ordinances.

It shall be the duty of the mayor to administer, govern, and interpret this Ordinance in such a manner as to accomplish said purpose.

Section 2. Application

All City departments and positions shall be subject to the provisions of this Ordinance except positions under the supervision of the School Committee and positions which are filled by direct election. Employees subject to the Massachusetts Civil Service Laws or collective bargaining agreements are subject only to those provisions in this article which are not specifically regulated by Civil Service Law or bargaining agreement. Nothing in this article shall be construed to limit any rights of employees pursuant to M.G.L. Chapter 150E. This article is intended to be in accordance with all applicable state and federal laws. In the event of inconsistencies, the state or federal law shall apply.

Section 3. Definitions

As used in this article, the following words and phrases shall have the following meanings unless a different construction is clearly required by the context or by the laws of the Commonwealth of Massachusetts.

Appointment - The placement of a person in a position in the service of the City.

Base Pay - The rate of pay established for a position by the Compensation Plan (hourly for hourly positions; weekly for weekly positions; annual for salaried positions), prior to inclusion of any employee-related longevity, differential or other special pay types.

Civil Service Law - M.G.L. Chapter 31 as amended and all rules and regulations made thereunder; and any special law enacted by the General Court regulating classifications, compensation and conditions of employment in service of the Town under M.G.L. Chapter 31.

Class - A group of positions in City service sufficiently similar in respect to duties that one position title may be applied to all, that the same requirements may be used to determine qualification of employees, and that the same test of qualification may be used to choose qualified employees, and that the same scale of pay may be applied to all positions in the group.

Classification Plan - The classification plan established by the mayor and approved by the council.

Compensatory Time - Paid authorized absence from work during normally-scheduled working hours administered to employees in lieu of payment for worked overtime hours, at the discretion of the appropriate Department or Division Head, and pursuant to the provisions of this Ordinance, any collective bargaining agreement and the United States Fair Labor Standards Act and City Policy.

¹ Text of Charter Article V, Section 2

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Continuous Employment - Uninterrupted employment in one or more consecutive regular full time or regular part time positions in City service, from the first date of hire until the date of termination subject to adjustment due to unpaid leaves of absence, where appropriate: used as the standard of measure for determining benefit and leave eligibility.

Department - Any department or other agency of the City subject to this Ordinance.

Department Director - The person having immediate supervision and control of a department and reporting to a Division Head.

Division Head - The person having immediate supervision and control of a division within the City, and reporting directly to the mayor and, in the case of the Library Division and the Cemetery Division, to an elected Board.

Employee - Regular full-time - one who fills a position which is considered to be ongoing for an indefinite period and who works the daily and weekly schedule of hours required for that department. Regular part-time - one who fills a position which is considered to be ongoing for an indefinite period and whose job/position requirements are such that he or she is scheduled for 20 or more hours per week, but less than full-time hours. Temporary full-time - one who fills a position which is considered to be of limited duration with the employee working the daily and weekly scheduled hours for that department. Temporary part-time - one who fills a position which is considered to be of limited duration, filling a need in a Town department where the daily and/or weekly hours scheduled are less than that for full-time employees.

Exempt Employee - An employee whose position is not regulated by the provisions of the U.S. Fair Labor Standards Act although defined by the FLSA.

Fair Labor Standards Act - The United States Act first adopted in 1938, enforced by the U.S. Department of Labor, that sets minimum wage, overtime pay, equal pay, recordkeeping, and child labor standards for employees who are covered by the Act and not exempt from specific provisions.

Lateral Transfer - Transfer to a position of the same compensation grade as the original position before transfer.

Longevity - The length of an employee's continuous employment.

Non-exempt Employees - Employees whose employment is regulated by the provisions of the U.S. Fair Labor Standards Act.

Non-represented Employees - Those employees whose position titles are not included in a collective bargaining unit.

Overtime - Time worked in excess of a non-exempt employee's normally scheduled number of hours per day or week.

Pay Plan - The compensation plan established by Section 5 of this Ordinance and by votes of the council in relation thereto, under authority of M.G.L. Chapter 41, Sections 108A and 108C, as amended.

Position - A post of employment established in the Classification Plan of this article, with assigned duties and responsibilities.

Probationary Period - The first six months of employment is a probationary period. Prior to completion of the probationary period, an employee evaluation is completed, including a written recommendation relative to the retention or termination of the employee. If the employee's job performance is found to be unacceptable, the service of the employee may be terminated. The probationary period may be extended by the Division Head with the approval of the Human Resource Director and the mayor.

Promotion - A change from a position of lower class and compensation grade to a position with greater responsibilities in a higher class and compensation grade.

Rate - A sum of money designated as compensation for hourly, weekly, monthly or annual employment services.

Reclassification - A change made to a position title within the Classification Plan as a result of a change in duties required to be performed by the position.

Represented Employees - Those employees whose position titles are included in a collective bargaining unit.

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Step/Step Rate - The rate(s) in the range of a pay grade.

Section 4. Classification Plan

The official Classification Plans of positions in the service of the City shall consist of the classes listed by titles in Appendix A which is incorporated as a part hereof and attached hereto within 30 days of being approved.

Section 5. Pay Plan

The official schedule of pay rates of each position defined in the Classification Plan shall consist of the pay grades showing the minimum and maximum salaries or wages, with step rate increases therefore, to be paid to employees in positions allocated to the various classes in the Classification Plan. This is referred to as Schedule B of the Personnel Ordinance, which is incorporated as a part hereof and attached hereto within 30 days of being approved. The pay grade for each class shall be the pay grade assigned to such class, as shown in Schedule A. Additional compensation shall be paid to employees in positions in certain classes, as provided in Schedule B or as authorized by the mayor.

Section 6. Amendments to Classification and Pay Plans

The pay grades and additional compensation as provided in Schedule B, when and as adjusted by vote of the council shall be effective on the dates so recommended, including those provided in labor agreements between the City and the various bargaining groups.

Section 7. Personnel Board

Deleted.

Section 8. Human Resources Director

8.1 The City shall have a Human Resources Director who shall be appointed by the mayor, subject to the approval of the council. The mayor may designate an existing City position to include the Human Resources Director duties and title, or may appoint a Human Resources Director as a separate position. The mayor may appoint an interim Human Resources Director to fill any vacancy.

8.1.1 The person appointed by the mayor shall possess ability and management experience in the field of Human Resources.

8.1.2 Subject to the direction and supervision of the mayor, the Human Resources Director shall perform the following duties with respect to all positions, Divisions and Departments having employees whose positions are subject to this Ordinance:

(a) Shall maintain the personnel records of all City employees.

(b) **Deleted.**

(c) **Deleted.**

(d) Shall have custody of all job descriptions and shall see that they are complete and current and accurately describe the duties which each employee is responsible for performing.

(e) Shall regularly review the Classification Plan and as required by the budget making process, shall prepare recommendations as to assignment of new positions and reassignment of existing positions within the Plan.

(f) Shall regularly review the Pay Plan and, as required by the budget making process, shall prepare recommendations as to adjustments in pay scales required generally by reason of changes in the cost of living or otherwise and as to specific adjustments required by reason of changes in the nature of the duties and responsibilities of particular positions or classes of positions.

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- (g) Shall, upon the request of any City Division or Department Director, prepare and assist in conducting training programs for the employees of that Division or Department for the purpose of improving their effectiveness in their jobs.
- (h) Shall, to the extent consistent with applicable grievance procedures, investigate the facts giving rise to grievances and make recommendations to the mayor at any step of the grievance procedure.
- (i) Shall make studies and recommendations to the mayor concerning action to improve working conditions and employee morale.
- (j) At the request of the mayor, to act for the City in collective bargaining, shall make such studies as may be requested and shall participate to the extent requested by the mayor or those persons in collective bargaining on behalf of the City.
- (k) Shall maintain a record of all persons seeking employment with the City and shall conduct a program of recruitment to obtain for the City best qualified prospective employees. All Divisions of the City, subject to this Ordinance, shall forthwith notify the Human Resources Director of all vacancies as they occur in positions under the City Pay and Classification Plans, and shall comply with Article IX, Section 15 of the Charter relative to such vacancies. Upon request from a Division Head or appointing authority, shall assist in the recruitment of prospective employees, and shall within 14 work days of receipt of such a request, provide a list of any persons who have signified interest in the vacant position, and then shall assist in the screening and selection as hereinafter more fully described in Section 16 of this Ordinance.
- (l) Shall provide liaison as fully as may be permitted by law between City Divisions and those agencies of the Commonwealth, including the Civil Service Commission, having jurisdiction over any employee of the City.
- (m) Unless otherwise provided by law, shall administer all City, including the School Department, employee benefit programs, including without limitation, workers' compensation, safety, and hospital and medical and life insurance programs.

Section 9. Class Definitions

The Human Resources Director may review from time to time, written definitions of the classes in the Classification Plan, and may suggest to the mayor, amendments to each including statements describing the kind of work, the distinguishing features of the work and such illustrative examples of duties as may be deemed appropriate as well as placements in the appropriate class and grade. Any changes made to the Classification Plan will be presented to the council for approval in accordance with this Ordinance.

Section 10. Interpretation of Class Definitions

The definitions of the classes shall be interpreted as descriptive only and not restrictive. The definitions for any class shall be construed solely as a means of identifying positions properly pertaining to the class, and not as prescribing what the duties or responsibilities of any position of the class shall be, nor as modifying or in any way affecting the power of any administrative authority as otherwise existing, to assign duties to, or to direct and control the work of any employee under the jurisdiction of such authority.

Section 11. Records and Requisitions

The Human Resources Director shall keep such personnel records of all employees of the City subject to the Classification and Pay Plan in accordance with law and City policy. These records shall include the name, age, date of employment, Civil Service classification, if any, City classification, title, and other pertinent data.

Section 12. Titles of Positions

No person shall be appointed, employed, or paid as an employee in any position under the Classification and Pay Plans under any title other than that of the class to which the position is allocated. The title of each class shall be the official title of every position allocated to the class for all purposes having to do with the position as such, and shall

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be used to designate the position in all payrolls, budget estimates, and official records and reports, and in every other connection involving personnel and fiscal processes.

Section 13. Step Rate Increases

A step rate increase between the minimum and maximum salaries or wages for all pay grades shall be the amount shown in the Pay Plan as amended.

Employees who are employed in any full-time or part-time positions within the Classification and Pay Plans and who have achieved a satisfactory performance review shall be eligible to receive a step increase on the anniversary date of appointment to said positions.

No employee shall be entitled to any step rate increase authorized by this section except upon recommendation of his/her Department Head, subject to approval of the Human Resources Director. If a Department Head and/or the Human Resources Director refuses to recommend any increases authorized by this section, or fails to recommend such an increase within ten days following the date when any employee in the Department would otherwise be eligible therefore, such employee shall have the right of appeal to the Chief Operating Officer who shall confer with such employee, and the Department Head before making a recommendation thereon.

An employee in a seasonal position within the Classification and Pay Plan shall be entitled to a step rate increase when he/she has completed a full season in the same position.

A step rate increase, as provided in this Section, shall be granted only until the employee attains the maximum salary or rate of the pay grade within the class to which his/her position has been allocated. A

ny employee aggrieved by said decision by his/her Division or Department Director may appeal it to the Chief Operating Officer.

Section 14. Payrolls

14.1 All departments employing hourly, temporary full-time or temporary part-time personnel shall certify their hours worked by submitting an authorized time sheet documenting such hours.

14.2 For the purposes of cost analysis and compilation of pertinent data and statistics, the City payroll shall accurately itemize and separately reflect at least, the following information for all employees:

- (a) Hours Worked
- (b) Hours Paid for Sick Leave
- (c) Hours Paid for Personal Day(s)
- (d) Hours Paid for Bereavement Leave
- (e) Hours Paid for Vacation Leave
- (f) Holiday Pay
- (g) Hours Paid for Compensatory Time
- (h) Hours Paid Under Workers Compensation

Section 15. Recruitment, Selection and Employment

15.1 All Division Heads shall give advance notice to the Human Resources Director, in such form as the Director may require, of all intentions to fill any vacancy within the Department. All requests for personnel will be made in accordance with City Policy and Procedures and Article IX, Section 15 of the Charter.

15.2 Except as otherwise provided in labor agreements between the City and the various bargaining units, or by Civil Service requirements, the Human Resources Director shall initiate and assist the Division Head in the search for well-qualified applicants.

The process of searching out and finding well-qualified applicants shall be instituted among City employees as well as all applicants.

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- 15.3 With the exception of Division and Department Directors, all job qualifications shall be established jointly by the Human Resources Director and the Division Head and shall be adhered to as a minimum in filling the position. Such qualifications shall be delineated and described in terms of the minimum requirements necessary for an applicant to possess to qualify for the position. The specific qualifications shall relate to the functions and duties of the job to be performed.
- 15.4 The Human Resources Director and staff shall assist the Division Head in the processing and screening of all applicants and the arrangement of interviews of all well qualified applicants.
- 15.5 Vacancy in any position within the Classification and Pay Plans may be filled by the Division or Department Director subject to the consent of the mayor pursuant to Article III, Section 3(a) of the Charter.
- 15.6 A vacancy in any Division or Department Director position shall be filled by the mayor pursuant to Article II of these Ordinances and the Framingham Home Rule Charter.
- 15.7 When an employee is appointed on an acting or temporary basis, until such time as a permanent appointment is made, the employee may be paid on a temporary basis at a rate recommended by the Department Head and approved by the Human Resources Director yet included in the Pay Plan. When there is a need to fill any position listed within the Classification and Pay Plan on a temporary basis, except part-time designated seasonal employees, the period of temporary employment for any person filling such a position shall not exceed a period of three months and no more than one temporary assignment may be made to an individual within one twelve month period. Any extension of the above three month period or additional assignment within a twelve month period may be made only with the prior approval of the mayor.
- The Human Resources Division shall be notified forthwith as to all vacancies to be filled in both temporary and permanent positions and the Human Resources Division shall assist in the recruiting, screening, and selecting of the persons to fill these positions.
- 15.8 With regard to new personnel:
- 15.8.1 The starting compensation rate shall be step 1 of the grade level authorized for the job on the Classification Plan for which the new employee is hired unless otherwise authorized by the mayor.
- 15.8.2 For new personnel be they regular full time or regular part time, the first six months (or more if determined necessary) of employment shall be a probationary period. The employee while in the probationary period shall be eligible to participate in benefits for City employees in the manner described below:
- 15.8.3 **Employee Benefits**
- (a) Health Insurance - The City will contribute towards the premiums of health plans it may offer its employees at the percentage agreed to in the manner established by M.G.L. Chapters 32B and 150E.
- (b) Life Insurance - The City will contribute towards the premiums of the basic group life and accidental death and dismemberment insurance it may offer its employees at the percentage agreed to in the manner established by M.G.L. Chapters 32B and 150E. Employees may purchase additional coverage at their own expense.
- (c) Contributory Retirement System - Funds shall be deducted for retirement purposes and applied to retirement from the date of deduction.
- (d) Vacation, Personal Days, Longevity - The initial date of hire will be the date used for determining eligibility for vacation leave, personal days, and longevity for such employee in accordance with City policy.
- (e) Sick leave - Any employee will be permitted to use accumulated sick leave in accordance with the City Policy on Sick Leave.

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(f) Holidays- The employee who is in pay status the work day prior to and following the holiday will be paid for the holiday and in accordance with the City policy on Holiday pay.

Section 16. Allowance for Vacation Leave

Vacation leave shall be granted in accordance with the City's policy on Vacation Leave, the applicable Collective Bargaining Agreement, and applicable State and Federal Laws.

Section 17. Leave of Absence

The mayor may grant leaves of absence in accordance with City Policy and Collective Bargaining Agreements.

Section 18. Sick Leave

18.1 Sick Leave may be granted as outlined in the City's policy on Sick Leave.

18.2 Any employee who fraudulently reports illness or injury in order to secure the benefit of sick leave with pay shall be subjected to disciplinary measures up to and including discharge.

18.3 Accrued personal sick leave may be used to supplement Workers' Compensation benefits.

Section 19. Longevity Pay

Longevity pay shall be paid to any regular employee in the City service covered by the Classification Plan, at the rate of two hundred dollars annually after the completion of ten years of continuous service, and only after the completion of each successive year of service thereafter. An additional fifty dollars shall be paid annually for the completion of each additional five years of continuous service thereafter. Said longevity pay shall be due and payable within thirty (30) days after the anniversary date of completion of said service.

The continuous service of an employee shall not be deemed to have been broken by service in the Armed Forces of the United States providing such employee returns to the City employment within two years of his/her service termination date, and provided further that the employee's time in the Armed Forces is limited to four years of service time unless it is involuntary service, in which case it may exceed four years.

Section 20. Work Week

Full-time employees of City divisions, except as provided in the respective labor agreements, shall work thirty-seven and one-half hours.

Any overtime hours shall be paid, over forty hours, and in accordance with Federal Fair Labor Standards Act.

Section 21. Employee Review

Each employee covered by the Personnel Ordinance shall have his/her work performance and attendance record reviewed at least once each year. Such review shall be made immediately prior to the employee's work anniversary date with the City. Said review, made by the employee's Division or Department Director or appointing authority, shall be discussed with the employee and the employee shall be requested to sign his/her review sheet stating that he/she has read said review and further that his/her Division or Department Director or appointing authority has discussed the contents thereof with him/her. After the employee has signed said review sheet, it shall then be forwarded to the Human Resources Division which shall be responsible that said reviews are, in fact, done.

Section 22. Civil Service Law

Nothing in this Ordinance shall be construed to conflict with Massachusetts General Laws, Chapter 31 as to those employees under the jurisdiction of Civil Service.

Section 23. Americans with Disabilities Act

As of July 1992 all provisions of this Ordinance must conform to the requirements of the Americans with Disabilities Act. In keeping with the recommendation of the Report of the House Committee on Education and Labor (Report No. 101-485) the City shall take all action necessary to comply with the Act.

Section 24. Disciplinary Actions

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24.1 The City shall follow a progressive disciplinary policy of oral and written warnings, suspensions, and terminations. Division or Department Directors may start the disciplinary process at any stage of the process with the approval of the Human Resources Director.

Section 25. Dispute Resolution

25.1 Any employee who feels aggrieved by the administration of any provision of the Ordinance or City policy may take the matter up with his/her immediate supervisor.

25.2 If the matter is not cleared up following a discussion with the immediate supervisor, the employee may submit a written complaint to his/her Division or Department Director. The Division or Department Director may give the employee an informal hearing and attempt to reach a mutually satisfactory adjustment.

25.3 If the matter is not satisfactorily settled within two weeks after a written complaint is made, either party may submit the question to the Human Resources Director. The Human Resources Director shall take the matter under advisement, may hold a public or private hearing at the written request of the employee and shall provide a recommendation to the mayor within thirty days.

Section 26. Employment Contracts

All employment contracts must be executed in accordance with the applicable state statute and be in compliance with state and federal law and Framingham Home Rule Charter.