

TOWN OF UPTON
SPECIAL TOWN MEETING
NOVEMBER 13, 2018



TEXT OF WARRANT ARTICLES

Zoning Bylaw
Article 8A - 8B - 8C - 8D
General Bylaw
Article 11
Personnel Bylaw
Article 13

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Zoning Bylaw

ARTICLE 8 MARIJUANA BYLAW

ARTICLE 8A

Prohibition of Retail Marijuana Establishments, Creation of Marijuana Overlay Districts, and Regulation of Other Types of Marijuana Establishments

Amend the Zoning By-laws as follows:

1. **Prohibit Certain Types of Adult Use Marijuana/Create Overlay:** Insert the following new Section 6.7, "Marijuana Overlay District Bylaw", as set forth below, and amend the Zoning Map of the Town of Upton to add the Marijuana Overlay District ("MOD") as defined in new Section 6.7.4:

6.7 MARIJUANA OVERLAY DISTRICT BYLAW

6.7.1 Purpose

The purpose of this Section is to allow for the siting of state-licensed adult use Marijuana Establishments in appropriate locations consistent with M.G.L. c.94G and 935 CMR 500.00 and any other applicable state laws and regulations regarding adult use marijuana, also known as recreational or non-medical marijuana, and to impose reasonable time, place and manner restrictions on such establishments to ensure public health, safety and well-being and mitigate against undue impacts on the natural and built environment of the Town and its residents.

6.7.2 Definitions

Where not expressly defined herein, terms used in this Section shall be interpreted as defined in the regulations governing Adult Use of Marijuana (935 CMR 500.000) and otherwise by their plain language.

Marijuana Establishment for purposes of this bylaw means all Marijuana Establishments as defined in G.L. c.94G, §1 and 935 CMR 500.00, but excluding Marijuana Retailers.

6.7.3 Prohibited Use.

Consistent with G.L. c. 94G, Section 3(a)(2), the Town hereby prohibits Marijuana Retailers in the Town of Upton.

6.7.4 Establishment

- 1) Establishment: There is hereby established in the Town of Upton two Marijuana Overlay Districts, the boundaries of which are shown on the Zoning Map on file with the Town Clerk and are described as follows:

- a. Marijuana Overlay 1 – Marijuana Manufacturers, Research and Testing Facilities (to be referred to as “MOD WEST”), to be comprised of parcels within the C&I Zoning District appearing on the Zoning Map lying to the south of Route 140 on the West side of Town.
- b. Marijuana Overlay 2 – All Marijuana Establishments (to be referred to as “MOD EAST”), to be comprised of parcels within the C&I Zoning District appearing on the Zoning Map located to the East side of Town and abutting Hopedale and Mendon.

2) MOD WEST and MOD EAST Uses:

- a. Land within the MOD WEST may be used for: (1) state-licensed Marijuana Product Manufacturers, Marijuana Research Facilities and Independent Testing Laboratories, subject to the provisions of this bylaw; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply.
- b. Land within the MOD EAST may be used for (1) all Marijuana Establishments, as defined herein, subject to the provisions of this bylaw; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply.
- c. Within the MOD WEST and the MOD EAST, all requirements of the underlying zoning district remain in effect, except where this bylaw provides an alternative to such requirements. If the provisions of this bylaw are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MOD WEST or the MOD EAST conflict with the requirements of the underlying district, the requirements of the MOD shall control.

6.7.5 Location and Dimensional Controls

- 1) Marijuana Establishments allowed pursuant to Section 6.7.4 may be permitted in the MOD WEST or MOD EAST pursuant to a Special Permit as set forth in Section 9.3 and Site Plan Approval as set forth in 9.4 of the Zoning By-laws.
- 2) Marijuana Establishments may not be located within 500 feet of the following pre-existing uses:
 - a. Public or private school providing education in kindergarten or grades 1 through 12;
 - b. State-licensed Child Care Facility;
 - c. Library, playground, public park, youth center, or similar youth recreational facility.

The distance under this section shall be measured in a straight line from the nearest point of the property line of the protected uses identified above to the nearest point of the property line of the proposed Marijuana Establishment.

- 3) Marijuana Establishments shall be located only in a permanent building and not within a trailer, cargo container, motor vehicle or other similar nonpermanent, movable enclosure.
- 4) No Marijuana Establishment is permitted to provide a drive-through service.
- 5) Unless explicitly stated otherwise, Marijuana Establishments shall conform to the dimensional requirements applicable to non-residential uses within the underlying zoning district.
- 6) All Marijuana Establishments shall conform to the signage requirements of Section 5.12 of the Zoning By-laws.
- 7) Marijuana Establishments shall employ odor control technology such that no odor from marijuana cultivation or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment or at any adjoining use or property.
- 8) Lighting at Marijuana Establishments shall comply with this bylaw and be shielded so as not to shed light onto adjacent properties. The Planning Board may require any artificial lighting system to employ only LED components equipped with deflectors in order to mitigate potential light pollution.
- 9) Marijuana Establishments shall comply with the parking requirements of Section 5.10.04 for Shops of the Building Trades.

6.7.6 Special Permit

- 1) Procedure: The Planning Board shall be the Special Permit Granting Authority (SPGA) and shall conduct Site Plan Review for an applicant for a Marijuana Establishment pursuant to Section 9.3 and 9.4 of the Zoning By-laws.
 - a. Additional Required Information: No Special Permit application for a Marijuana Establishment shall be deemed complete until the following additional information, which shall be further considered as detailed in below, is provided:
 - i. The name and address of each owner and operator of the Marijuana Establishment;

- ii. A detailed floor plan of the premises of the proposed Marijuana Establishment that identifies the square footage available and describes the functional areas of the facility;
- iii. Detailed schematics of signage being proposed for the facility;
- iv. A Site Plan that include the following information:
 - 1. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, signage and all other applicable provisions of the Zoning By-laws;
 - 2. Convenience and safety of vehicular and pedestrian movement on the site to provide secure and safe access and egress for clients and employees arriving to and from the site;
 - 3. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes;
 - 4. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
 - 5. Site design such that it provides convenient, secure and safe access and egress for clients and employees arriving to and from the site.
 - 6. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
 - 7. Adequacy of water supply, surface and subsurface drainage and light.
- v. A description of the security measures, including employee security policies;
- vi. A copy of the emergency procedures;
- vii. A copy of proposed waste disposal procedures;
- viii. Evidence that the applicant has site control and the right to use the site for a Marijuana Establishment in the form of a deed, valid lease, or purchase & sale

agreement or a notarized statement from the property owner certifying the Applicant has firm site control;

- ix. Evidence that the applicant has executed a Host Community Agreement with the Town of Upton for the Marijuana Establishment;
 - x. Evidence that a Community Outreach Meeting in accordance with 935 CMR 500 has occurred;
 - xi. Proof that the Marijuana Establishment application to the Cannabis Commission has been deemed complete pursuant to 935 CMR 500.102. Copies of the complete application, to the extent legally allowed, shall be submitted as part of the Special Permit application, and no Special Permit application shall be deemed complete until this information is provided.
 - 1. No Special Permit shall be granted to an applicant without the Marijuana Establishment first having been issued a Provisional License from the Commission pursuant to 935 CMR 500.000.
 - 2. No person shall operate a Marijuana Establishment without having a license in good standing from the Commission.
 - xii. An odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the establishment, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor control technology, including maintenance of such controls; and
 - xiii. All Marijuana Cultivators shall submit an energy use plan to demonstrate best practices for energy conservation. The plan shall include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand.
- b. The Planning Board shall refer copies of the application to all appropriate Town departments and officials, including but not limited to the Building Department, Fire Department, Police Department, Board of Health, and the Conservation Commission, which shall, in turn, review the application and submit written recommendations. Failure to make recommendations within thirty (35) days of referral shall be deemed to be lack of opposition.
 - c. After notice and public hearing in accordance with Section 9.3 and 9.4 of the Zoning By-laws and consideration of application materials, consultant reviews, public

comments, and the recommendations of other Town officials, boards and departments, the Planning may act upon the Special Permit and request for Site Plan approval.

- 2) Special Permit Conditions on Marijuana Establishments: The Planning Board may impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this Section. In addition to any specific conditions applicable to the applicant's Marijuana Establishment, the Planning Board may include the following conditions in any Special Permit granted under this Section:
 - a. The use shall not generate outside odors from the processing or manufacturing of marijuana and marijuana products.
 - b. A Security Plan shall be required for all Marijuana Establishments, which shall be subject to approval by the Fire and Police Chiefs and submitted to the Planning Board and updated on an annual basis.
 - c. The Special Permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
 - d. Marijuana Establishments may not operate, and the Special Permit will not be valid, until the applicant has obtained all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the Marijuana Establishment.
 - e. Marijuana Establishments may not operate, and the Special Permit will not be valid, until the applicant has entered into a Host Community Agreement with the Town relative to any Marijuana Establishment permitted under this Section.
 - f. A Special Permit granted under this section shall have a term limited to the duration of the applicant's ownership and use of the premises as a Marijuana Establishment. A Special Permit may be transferred only with the approval of the Planning Board in the form of a modification to the Special Permit.
 - g. The Special Permit shall lapse upon the expiration or termination of the applicant's license by the Cannabis Control Commission.

- h. The Special Permit holder shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of the cessation of operation of the Marijuana Establishment's expiration or termination of the permit holder's license with the Cannabis Control Commission.
- 3) Waiver: When reviewing an application for a Special Permit, the Planning Board may waive any submission requirement or design guideline it determines to be unnecessary or not applicable to the review of the project provided that the Planning Board determines that the project will not have a significant impact on the site, its relationship with abutting properties, traffic impacts to public ways, public infrastructure or services, environmental or historic resources. Waiver requests shall be made by the applicant in writing with stated reasons for requesting the waiver(s). Any waivers acted on by the Planning Board shall be in writing as part of its written the decision on the plan filed with the Town Clerk.
- 4) Findings: In addition to the standard Findings for a Special Permit and Site Plan Approval the SPGA must also find all the following:
- a. The Marijuana Establishment is consistent with and does not derogate from the purposes and intent of this Section and the Zoning By-laws generally;
 - b. The Marijuana Establishment is designed to minimize any adverse visual, odor or other environmental and economic impacts on abutters and the general public;
 - c. The Marijuana Establishment demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations;
 - d. The Applicant has satisfied all of the requirements of this Section and other applicable Sections of these By-laws;
 - e. The Marijuana Establishment provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of marijuana is adequately secured on-site or via delivery; and
 - f. The Marijuana Establishment adequately addresses issues of traffic, circulation, parking and queuing, particularly at peak periods at the Marijuana Establishment, and it impact on neighboring uses.

6.7.7 Prohibition Against On-Site Consumption

No marijuana shall be smoked, eaten, or otherwise consumed or ingested in public or on the premises of a Marijuana Establishment unless expressly permitted under this law and permitted by state law or regulation. The prohibition on on-site consumption shall also include private social clubs or any other establishment which allows for social consumption of marijuana or marijuana products on the premises, regardless of whether the product is sold to consumers on site.

6.7.8 Prohibition Against Nuisances

No use shall be allowed in the MOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

6.7.9 Severability

The provisions of this bylaw are severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

2. Extend Moratorium: And further, re-number the section currently numbered Section 6.7, "Temporary Moratorium on Recreational Marijuana Establishments", as Section 6.7A, and delete the strikethrough text and insert the bold and underlined text as shown below:

Section 6.7A Temporary Moratorium on Recreational Marijuana Establishments

6.7A.1 Purpose

On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes, which was amended by Chapter 351 of the Acts of 2016, and by Chapter 55 of the Acts of 2017, was codified as G.L. c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed. ~~The law requires a Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018 and to begin accepting applications for licenses no later than April 1, 2018.~~ **The Cannabis Control Commission issued regulations on March 23, 2018 regarding recreational (non-medical) use of Marijuana and has begun accepting applications for licensing of non-medical marijuana establishments.** Currently the Zoning Bylaw does not address non-medical Marijuana Establishments (hereinafter, a "Recreational Marijuana Establishment"), as defined in G.L. c. 94G, §1. Regulations ~~to be~~ promulgated by the Cannabis Control Commission may provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments.

The regulation of recreational marijuana raises novel legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact bylaws in a consistent manner.

Town Meeting voted at the November 13, 2018 Special Town Meeting under Article 8A to prohibit Marijuana Retail Establishments from locating in the Town, but such prohibition must also be approved by the voters of the Town at an election in accordance with the provisions of G.L. c.94G, §1. The purpose of this moratorium is therefore to allow time for the voters of the Town to consider the prohibition on Marijuana Retail Establishments.

6.7A.2 Definition

The term "Recreational Marijuana Establishment" shall mean a "marijuana establishment" as defined in G.L. c.94G, §1, a "marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana related business."

6.7A.3 Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Recreational Marijuana Establishment and other uses related to non-medical or recreational marijuana. The moratorium shall be in effect through ~~December 31, 2018~~ **the date on which the Town votes to approve a ballot question proposing a bylaw approved under Article 8A at the November 13, 2018 Special Town Meeting prohibiting Marijuana Retail Establishments from locating in the Town of Upton, or June 30, 2019, whichever occurs first.** During the moratorium period, the Town shall **continue to** undertake a planning process to address the potential impacts of recreational marijuana in the Town, ~~and to~~ consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments, and ~~shall consider~~ **review the implications and implementation issues that** adopting new Zoning Bylaws **will impose** in response to these new issues.

ARTICLE 8B

Creation of Marijuana Overlay Districts and Regulation of Marijuana Establishments
Amend the Zoning Bylaws as follows:

1. Delete in its entirety Section 6.7, "Temporary Moratorium on Recreational Marijuana Establishments", and insert in place thereof a new Section 6.7, "Marijuana Overlay District Bylaw" as set forth below;
2. Amend the Zoning Map of the Town of Upton to add the Marijuana Overlay Districts ("MOD WEST and MOD EAST") as defined in new Section 6.7.3 below; and

3. Delete the second sentence of Note #10 in Section 3.1.3 of the Zoning Bylaw, the Table of Uses.

6.7 MARIJUANA OVERLAY DISTRICT BYLAW

6.7.1 Purpose

The purpose of this Section is to allow for the siting of state-licensed adult use Marijuana Establishments in appropriate locations consistent with M.G.L. c.94G and 935 CMR 500.00 and any other applicable state laws and regulations regarding adult use marijuana, also known as recreational or non-medical marijuana, and to impose reasonable time, place and manner restrictions on such establishments to ensure public health, safety and well-being and mitigate against undue impacts on the natural and built environment of the Town and its residents.

6.7.2 Definitions

Where not expressly defined herein, terms used in this Section shall be interpreted as defined in the regulations governing Adult Use of Marijuana (935 CMR 500.000) and otherwise by their plain language.

Marijuana Establishment means a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business.

6.7.3 Establishment

- 1) Establishment: There is hereby established in the Town of Upton two Marijuana Overlay Districts, the boundaries of which are shown on the Zoning Map on file with the Town Clerk and are described as follows:
 - a. Marijuana Overlay 1 – Marijuana Manufacturers, Research and Testing Facilities (to be referred to as “MOD WEST”), to be comprised of parcels within the C&I Zoning District appearing on the Zoning Map lying to the south of Route 140 on the West side of Town.
 - b. Marijuana Overlay 2 – All Marijuana Establishments (to be referred to as “MOD EAST”), to be comprised of parcels within the C&I Zoning District appearing on the Zoning Map located to the East side of Town and abutting Hopedale and Mendon.
- 2) MOD WEST and MOD EAST Uses:
 - a. Land within the MOD WEST may be used for: (1) state-licensed Marijuana Product Manufacturers, Marijuana Research Facilities and Independent Testing Laboratories, subject to the provisions of this bylaw; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply.

- b. Land within the MOD EAST may be used for (1) all Marijuana Establishments, as defined herein, subject to the provisions of this bylaw; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply.
- c. Within the MOD WEST and the MOD EAST, all requirements of the underlying zoning district remain in effect, except where this bylaw provides an alternative to such requirements. If the provisions of this bylaw are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MOD WEST or the MOD EAST conflict with the requirements of the underlying district, the requirements of the MOD shall control.

6.7.4 Location and Dimensional Controls

- 10) Marijuana Establishments may be permitted in the MOD pursuant to a Special Permit as set forth in Section 9.3 and Site Plan Approval as set forth in 9.4 of the Zoning By-laws.
- 11) Marijuana Establishments may not be located within 500 feet of the following pre-existing uses:
 - d. Public or private school providing education in kindergarten or grades 1 through 12;
 - e. State-licensed Child Care Facility;
 - f. Library, playground, public park, youth center, or similar youth recreational facility.

The distance under this section shall be measured in a straight line from the nearest point of the property line of the protected uses identified above to the nearest point of the property line of the proposed Marijuana Establishment.

- 12) A Marijuana Establishment with cultivation and/or processing facilities shall be separated from adjacent uses by a 50-foot buffer strip, unless the applicant can demonstrate, and the Planning Board finds, that adequate buffering can be provided in a narrower buffer strip.
- 13) Marijuana Establishments shall be located only in a permanent building and not within a trailer, cargo container, motor vehicle or other similar nonpermanent, movable enclosure.
- 14) No Marijuana Establishment is permitted to provide a drive-through service.

- 15) Unless explicitly stated otherwise, Marijuana Establishments shall conform to the dimensional requirements applicable to non-residential uses within the underlying zoning district.
- 16) All Marijuana Establishments shall conform to the signage requirements of Section 5.12 of the Zoning By-laws.
- 17) Marijuana Establishments shall employ odor control technology such that no odor from marijuana cultivation or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment or at any adjoining use or property.
- 18) Lighting at Marijuana Establishments shall comply with this bylaw and be shielded so as not to shed light onto adjacent properties. The Planning Board may require any artificial lighting system to employ only LED components equipped with deflectors in order to mitigate potential light pollution.
- 19) Marijuana Retailers shall comply with the parking requirements of Section 5.10.01 for Retail Stores and all other types of Marijuana Establishments shall comply with the parking requirements of Section 5.10.04 for Shops of the Building Trades.

6.7.5 Special Permit

- 5) Procedure: The Planning Board shall be the Special Permit Granting Authority (SPGA) and shall conduct Site Plan Review for an applicant for a Marijuana Establishment pursuant to Section 9.3 and 9.4 of the Zoning By-laws.
 - a. Additional Required Information: No Special Permit application for a Marijuana Establishment shall be deemed complete until the following additional information, which shall be further considered as detailed in below, is provided:
 - i. The name and address of each owner and operator of the Marijuana Establishment;
 - ii. A detailed floor plan of the premises of the proposed Marijuana Establishment that identifies the square footage available and describes the functional areas of the facility;
 - iii. Detailed schematics of signage being proposed for the facility;
 - iv. A Site Plan that include the following information:

1. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, signage and all other applicable provisions of the Zoning By-laws;
 2. Convenience and safety of vehicular and pedestrian movement on the site to provide secure and safe access and egress for clients and employees arriving to and from the site;
 3. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes;
 4. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
 5. Site design such that it provides convenient, secure and safe access and egress for clients and employees arriving to and from the site.
 6. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
 7. Adequacy of water supply, surface and subsurface drainage and light.
- v. A description of the security measures, including employee security policies;
 - vi. A copy of the emergency procedures;
 - vii. A copy of proposed waste disposal procedures;
 - viii. Evidence that the applicant has site control and the right to use the site for a Marijuana Establishment in the form of a deed, valid lease, or purchase & sale agreement or a notarized statement from the property owner certifying the Applicant has firm site control;
 - ix. Evidence that the applicant has executed a Host Community Agreement with the Town of Upton for the Marijuana Establishment;
 - x. Evidence that a Community Outreach Meeting in accordance with 935 CMR 500 has occurred;

- xi. Proof that the Marijuana Establishment application to the Cannabis Commission has been deemed complete pursuant to 935 CMR 500.102. Copies of the complete application, to the extent legally allowed, shall be submitted as part of the Special Permit application, and no Special Permit application shall be deemed complete until this information is provided.
 - 1. No Special Permit shall be granted to an applicant without the Marijuana Establishment first having been issued a Provisional License from the Commission pursuant to 935 CMR 500.000.
 - 2. No person shall operate a Marijuana Establishment without having a license in good standing from the Commission.
 - xii. An odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the establishment, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor control technology, including maintenance of such controls; and
 - xiii. All Marijuana Cultivators shall submit an energy use plan to demonstrate best practices for energy conservation. The plan shall include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand.
- b. The Planning Board shall refer copies of the application to all appropriate Town departments and officials, including but not limited to the Building Department, Fire Department, Police Department, Board of Health, and the Conservation Commission, which shall, in turn, review the application and submit written recommendations. Failure to make recommendations within thirty (35) days of referral shall be deemed to be lack of opposition.
 - c. After notice and public hearing in accordance with Section 9.3 and 9.4 of the Zoning By-laws and consideration of application materials, consultant reviews, public comments, and the recommendations of other Town officials, boards and departments, the Planning may act upon the Special Permit and request for Site Plan approval.
- 6) Special Permit Conditions on Marijuana Establishments: The Planning Board may impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this Section. In

addition to any specific conditions applicable to the applicant's Marijuana Establishment, the Planning Board may include the following conditions in any Special Permit granted under this Section:

- i. Hours of Operation for Retail Marijuana Establishments.
- j. The use shall not generate outside odors from the cultivation or processing of marijuana and marijuana products.
- k. A Security Plan shall be required for all Marijuana Establishments, which shall be subject to approval by the Fire and Police Chiefs and submitted to the Planning Board and updated on an annual basis.
- l. The Special Permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
- m. Marijuana Establishments may not operate, and the Special Permit will not be valid, until the applicant has obtained all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the Marijuana Establishment.
- n. Marijuana Establishments may not operate, and the Special Permit will not be valid, until the applicant has entered into a Host Community Agreement with the Town relative to any Marijuana Establishment permitted under this Section.
- o. A Special Permit granted under this section shall have a term limited to the duration of the applicant's ownership and use of the premises as a Marijuana Establishment. A Special Permit may be transferred only with the approval of the Planning Board in the form of a modification to the Special Permit.
- p. The Special Permit shall lapse upon the expiration or termination of the applicant's license by the Cannabis Control Commission.
- q. The Special Permit holder shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of the cessation of operation of the Marijuana Establishment's expiration or termination of the permit holder's license with the Cannabis Control Commission.

7) Waiver: When reviewing an application for a Special Permit, the Planning Board may

waive any submission requirement or design guideline it determines to be unnecessary or not applicable to the review of the project provided that the Planning Board determines that the project will not have a significant impact on the site, its relationship with abutting properties, traffic impacts to public ways, public infrastructure or services, environmental or historic resources. Waiver requests shall be made by the applicant in writing with stated reasons for requesting the waiver(s). Any waivers acted on by the Planning Board shall be in writing as part of its written the decision on the plan filed with the Town Clerk.

- 8) Findings: In addition to the standard Findings for a Special Permit and Site Plan Approval the SPGA must also find all the following:
- a. The Marijuana Establishment is consistent with and does not derogate from the purposes and intent of this Section and the Zoning By-laws generally;
 - b. The Marijuana Establishment is designed to minimize any adverse visual, odor or other environmental and economic impacts on abutters and the general public;
 - c. The Marijuana Establishment demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations;
 - d. The Applicant has satisfied all of the requirements of this Section and other applicable Sections of these By-laws;
 - e. The Marijuana Establishment provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or via delivery; and
 - f. The Marijuana Establishment adequately addresses issues of traffic, circulation, parking and queuing, particularly at peak periods at the Marijuana Establishment, and its impact on neighboring uses.

6.7.6 Prohibition Against On-Site Consumption

No marijuana shall be smoked, eaten, or otherwise consumed or ingested in public or on the premises of a Marijuana Establishment unless expressly permitted under this law and permitted by state law or regulation. The prohibition on on-site consumption shall also include private

social clubs or any other establishment which allows for social consumption of marijuana or marijuana products on the premises, regardless of whether the product is sold to consumers on site.

6.7.7 Prohibition Against Nuisances

No use shall be allowed in the MOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

6.7.8 Severability

The provisions of this bylaw are severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

ARTICLE 8C

Adult-Use Marijuana Establishments Prohibited

Amend the Zoning Bylaws as follows:

1. ***Prohibit all types of marijuana establishments:*** Insert a new Section 6.7, “Adult-Use Marijuana Establishments Prohibited”, as follows:

6.7 ADULT-USE MARIJUANA ESTABLISHMENTS PROHIBITED

Consistent with G.L. c. 94G, §3(a)(2), all types of adult-use, also referred to as non-medical, “Marijuana Establishments”, as defined in G.L. c. 94G, §1 and 935 CMR 500.00, including Marijuana Cultivators, Craft Marijuana Cooperatives, Marijuana Retailers, Marijuana Product Manufacturers, Independent Testing Laboratories, Marijuana Research Facilities, Marijuana Transporters or any other type of licensed marijuana-related businesses, shall be prohibited within the Town of Upton.

2. ***Extend Temporary Moratorium:*** And further, re-number the section currently numbered Section 6.7, “Temporary Moratorium on Recreational Marijuana Establishments”, as Section 6.7A, and delete the strikethrough text and insert the bold and underlined text as shown below:

6.7A.1 Purpose

On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes, which was amended by Chapter 351 of the Acts of 2016, and by Chapter 55 of the Acts of 2017, was codified as G.L. c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed. ~~The law requires a Cannabis Control Commission to issue regulations regarding the~~

licensing of commercial activities by March 15, 2018 and to begin accepting applications for licenses no later than April 1, 2018. **The Cannabis Control Commission issued regulations on March 23, 2018 regarding recreational (non-medical) use of Marijuana and has begun accepting applications for licensing of non-medical marijuana establishments.** Currently the Zoning Bylaw does not address non-medical Marijuana Establishments (hereinafter, a "Recreational Marijuana Establishment"), as defined in G.L. c. 94G, §1. Regulations ~~to be~~ promulgated by the Cannabis Control Commission may provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments.

The regulation of recreational marijuana raises novel legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact bylaws in a consistent manner.

Town Meeting voted at the November 13, 2018 Special Town Meeting under Article 8C to prohibit Recreational Marijuana Establishments from locating in the Town, but such prohibition must also be approved by the voters of the Town at an election in accordance with the provisions of G.L. c.94G, §1. The purpose of this moratorium is therefore to allow time for the voters of the Town to consider the question of whether to prohibit Recreational Marijuana Establishments in Upton.

6.7A.3 Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Recreational Marijuana Establishment and other uses related to non-medical or recreational marijuana. The moratorium shall be in effect through ~~December 31, 2018~~ **the date on which the Town votes to approve a ballot question proposing a bylaw approved under Article 8C at the November 13, 2018 Special Town Meeting prohibiting Recreational Marijuana Establishments from locating in the Town of Upton, or June 30, 2019, whichever occurs first.**

During the moratorium period, the Town shall undertake a **continued** planning process to address the potential impacts of recreational marijuana in the Town, ~~and to~~ consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments **and the implications such regulations have on the Town of Upton and the referenced planning process,** and shall **give further consideration to** adopting new Zoning Bylaws in response to these new issues.

ARTICLE 8D

Temporary Moratorium on Recreational Marijuana Establishments

Amend the Zoning By-laws, Section 6.7, "Temporary Moratorium on Recreational Marijuana Establishments", specifically Sections 6.7.1 and 6.7.3, by inserting the underlined text and deleting the strikethrough text, as follows:

6.7.1 Purpose

On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes, which was amended by Chapter 351 of the Acts of 2016, and by Chapter 55 of the Acts of 2017, was codified as G.L. c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed. ~~The law requires a Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018 and to begin accepting applications for licenses no later than April 1, 2018.~~ **The Cannabis Control Commission issued regulations on March 23, 2018 regarding recreational (non-medical) use of Marijuana and has begun accepting applications for licensing of non-medical marijuana establishments.** Currently the Zoning Bylaw does not address non-medical Marijuana Establishments (hereinafter, a "Recreational Marijuana Establishment"), as defined in G.L. c. 94G, §1. Regulations ~~to be~~ promulgated by the Cannabis Control Commission may provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments.

6.7.3 Temporary Moratorium

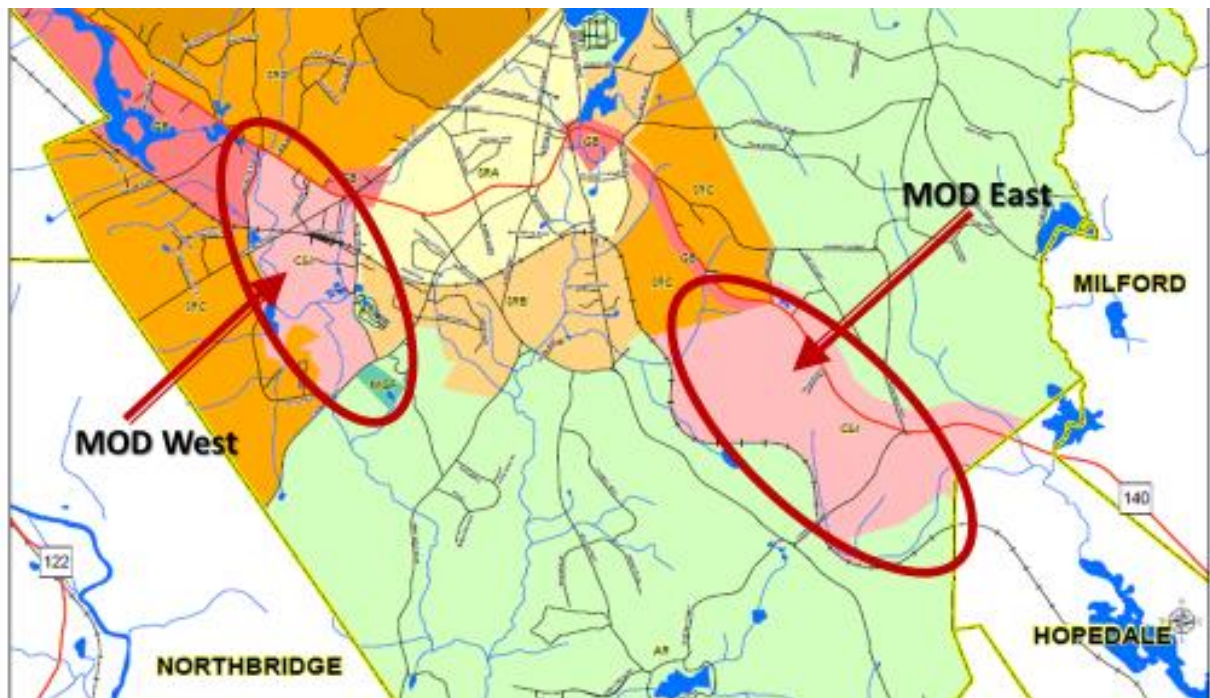
For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Recreational Marijuana Establishment and other uses related to non-medical or recreational marijuana. The moratorium shall be in effect through **June 30, 2019** ~~December 31, 2018~~. During the moratorium period, the Town shall undertake a **continued** planning process to address the potential impacts of recreational marijuana in the Town, ~~and to~~ consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments **and the implications such regulations have on the Town of Upton and the referenced planning process,** and shall **give further consideration to** adopting new Zoning Bylaws in response to these new issues.

Summary of Marijuana By-law Articles

	Retail	Manufacturing	Medicinal	Agriculture	Laboratories	Extend Moratorium	Required Ballot Question
8A	No	MOD E & W	MOD E	MOD E	MOD E & W	Yes	Yes
8B	MOD E	MOD E & W	MOD E	MOD E	MOD E & W	No	No
8C	No	No	No	No	No	Yes	Yes
8D	n/a	n/a	n/a	n/a	n/a	Yes	No

Marijuana uses would only be cited within the current Commercial/Industrial locations which shall be retitled to “Marijuana Overlay District West (MOD W)” and “Marijuana Overlay District East (MOD E)”. See map below.

Any prohibition of 8A and 8C will require a ballot question of the same to be held at the May 2019 Annual Election.



General Bylaw

ARTICLE 11: Amendment to Title 8 Preservation of Historically Significant Buildings

1. **Amend existing language.** Revise that portion of Title 8 of the General Bylaws, Preservation of Historically Significant Buildings, entitled, "Procedure" by inserting the underlined text and deleting the strikethrough text, as follows:

Procedure

No demolition permit for a significant building shall be issued without following the provisions of this bylaw.

An applicant proposing to demolish a building subject to this bylaw shall file with the Building Commissioner 2 copies of a demolition permit application containing the following information:

- The address of the building to be demolished
- The owner's name, address and telephone number
- A description of the building
- The reason for requesting a demolition permit
- A brief description of the proposed reuse, reconstruction or replacement
- Photographs taken within the past year of all existing façade elevations of the building to be demolished
- ~~A photograph or photographs of the building~~

The Building Commissioner shall within ~~7~~ 5 business days following receipt of the completed application forward a copy of the application to the Commission. ~~The Commission shall, within 15 business days after its receipt of the application, make a determination of whether the building is significant. If the Commission does not notify the Building Commissioner within 20 business days following its receipt of the application that the building is significant, the Building Commissioner may then issue the demolition permit in accordance within applicable law.~~

Determination

Upon determination by the Commission that the building is *not* significant, the Commission shall so notify the Building Commissioner and applicant in writing. Upon receipt of such notification from the Commission, the Building Commissioner may then issue the demolition permit in accordance with applicable law. If determined by the Commission, the issuance of a demolition permit will be contingent upon the property owner providing photographs and/or documents of the building and its significant features, as detailed by the Commission.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Commissioner and applicant in writing. No demolition permit may be issued at this time. ~~If the Commission does not notify the Building Commissioner within 22 days following receipt of the application by the Commission, the Building Commissioner may then issue the demolition permit in accordance with applicable law.~~

If the Commission determines that the building is significant, it shall hold a public hearing within ~~30-20~~ business days of the written notification to the Building Commissioner. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in Town Hall for a period of not less than ~~7~~ 5 business days prior to the date of said hearing.

The Commission shall determine at the public hearing or within ~~14~~ 10 business days after close of the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is *not* preferably preserved, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit in accordance with applicable law.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing. No demolition permit may be issued for a period of 12 months from the date of the notification, or, if the Commission fails to notify the Building Commissioner within 10 business days following the date of the determination, then as of the date of the determination, unless otherwise agreed to by the Commission. ~~If the Commission does not notify the Building Commissioner with 14 days after close of the public hearing, the Building Commissioner may issue the demolition permit in accordance with applicable law.~~

During the 12-month review period, the Commission will work with the property owner; national, state and local historical preservation organizations; and any other interested party in an effort to preserve the significant building. Such efforts shall include exploration of alternatives to demolition, including but not limited to rehabilitating the structure, incorporating historical elements of the historic structure into the new structure, or finding a location to relocate the structure.

The Building Commissioner may issue a demolition permit in accordance with applicable law for a preferably preserved building within the 12-month review period if the Commission notifies the Building Commissioner in writing that the Commission finds that it is in the public interest to issue the demolition permit, which interest may include but not be limited to submission by the applicant of an acceptable plan for reuse and improvement of the property; mitigation of the effects of demolition in some other way, such as photographing or documenting the building and its significant features and/or preserving some of these features on site or elsewhere, or otherwise undertaking action that benefits the Town's historic resources or objectives.

Following the 12-month review period, the Building Commissioner may issue the demolition permit in accordance with applicable law.

2. ***Insert a new provision providing for a Determination of Applicability.*** Revise that portion of Title 8 of the General Bylaws, Preservation of Historically Significant Buildings, entitled, "Procedure", by inserting at the conclusion thereof, and before the section entitled, "Administration", the following:

Determination of Applicability:

Prior to filing an application for a demolition permit with the Building Commissioner, the owner of a building may petition the Historical Commission for a Determination of Applicability. The Commission shall, within 30 working days following the filing of such a petition, determine if the building is historically significant and therefore subject to the demolition delay by-law process. The applicant shall be provided the opportunity to make a presentation to the Commission in connection with the petition. Should the owner fail, upon request, to provide the Commission with sufficient information, the Commission may deny further consideration of the petition for a Determination of Applicability.

The determination by the Commission of whether a building is historically significant shall be made in writing, be signed by the Commission, and be binding on the Commission for a period of two years from the date thereof.

Personnel By Law

ARTICLE 13: Consolidated Personnel Bylaw

Section 1. Purpose and Authorization

The purpose of the personnel bylaw is to establish fair and equitable personnel policies and to promote a system of personnel administration that ensures a uniform, fair and efficient application of personnel policies. This bylaw is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and General Laws, Chapter 41, Sections 108A and 108C. This bylaw supersedes any and all bylaws previously adopted by the Town pursuant to General Laws, Chapter 40, Section 21B and/or Chapter 41, Sections 108A and 108C. Classification and compensation plan in effect at the time of adoption of this bylaw shall continue in full force and effect until amended or superseded pursuant to **Section 6** of this bylaw.

Section 2. Application

All Town departments, employees, and positions shall be subject to the provisions of this bylaw, except employees with personal contracts. To the extent that any Town employee is subject to a collective bargaining agreement or personal employment agreement in the event of a conflict and/or an inconsistency between said agreement and this Bylaw, then said agreement shall prevail.

Section 3. Town Manager

The Town Manager's role is defined pursuant to Chapter 391 of the Acts of 2008.

Section 4. Personnel Board

Composition, Mode of Selection, Term of Office, Qualifications

The Board shall consist of five (5) members appointed by the Board of Selectmen for three-year terms. Elected officials or employees of the Town shall not be eligible to be appointed to the Personnel Board. As originally constituted, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years. Thereafter one or two members shall be appointed for terms of three years, so as to maintain five members. Members may be reappointed for an indefinite number of terms.

All members shall be registered voters and residents of the Town during their appointment.

Any vacancy occurring during a member's term of office shall be filled by the Board of Selectmen for the remainder of the original appointment.

Any member appointed shall not be a compensated employee of the Town in any status during the term of their appointment.

When membership of the Personnel Board is less than three members, the Board of Selectmen may appoint the Town Manager or other Alternate Members to the Personnel Board who may serve temporarily in the absence of a regular member.

Organization

The Board shall elect its own officers, who shall consist of a Chair and a Vice Chair.

Meetings shall be held at least quarterly, but may be called by the Chair at any time the need arises. Meetings may also be held upon the request of an employee, or their representative, in writing.

Three (3) members shall constitute a quorum for the transaction of business of the Committee.

Meetings shall be conducted in compliance with the provisions of GL c 30A section 21(a).

Powers and Duties

The Board shall be responsible for formulating recommendations and reviewing the classification and compensation plans, which shall be subject to such approval as required by law. The Personnel Board shall also evaluate classification of positions, including requests for reclassification, regardless of funding source and a review of all positions in the classification plan at appropriate intervals in accordance with proper personnel practices.

Section 5. Personnel Policy and Procedure Manual

A personnel policy shall be established by promulgation of policies pursuant to section 6. The personnel policy shall make use of current concepts of personnel management and may include, but not be limited to, the following elements:

Method of Administration

A policy of administration which assigns specific responsibility for all elements of the personnel policy, including: maintaining personnel records, implementing effective recruitment and selection processes, maintaining the classification and compensation plans, monitoring the application of personnel policies and periodic reviews, and evaluating the personnel policy.

Classification Plan

Based on similarity of duties and responsibilities; a classification plan for all employee positions shall be subject to this Bylaw. The same qualifications may be reasonably required for, and the same schedule of pay may be equitably applied to, all positions in the same class. Nothing in the classification plan shall infringe upon or supersede an appointing authority's ability to hire an employee into a newly created position, provided that the Town Manager and Personnel Board are first consulted regarding an appropriate starting salary and the Town Manager and Board of

Selectmen approve the same. As part of its regular review, the Personnel Board shall seek to update the Classification and Compensation Plans to include any new positions that were added during the prior year.

Compensation Plan

A compensation plan for all positions subject to this bylaw shall consist of:

1. A schedule of pay grades including minimum, maximum and intermediate rates for each grade; and
2. An official list indicating the assignment of each position to specific pay grades.

A Recruitment and Selection Policy

A recruitment and selection policy shall be defined.

Personnel Records

A centralized recordkeeping system which maintains essential personnel records.

Personnel Policies

A series of personnel policies which establishes the rights, the benefits to which certain personnel employed by the Town are entitled, and the obligations of said employees to the Town.

Other Elements

Other elements of a personnel policy as deemed appropriate or required by law.

Section 6. Adoption and Amendment of Personnel Policies

The Board of Selectmen shall adopt personnel policies defining the rights, benefits and obligations of employees' subject to this bylaw. Policies shall be adopted or amended as follows:

Preparation of Policies

Any member of the Board of Selectmen, Personnel Board, the Town Manager, or Elected Board may suggest policies for consideration. The Town Manager shall refer such suggested policies to the Personnel Board, which the Board need not consider any proposal already considered in the preceding twelve months. Any member of the Board of Selectmen, Personnel Board, the Town Manager, or Elected Board proposing a new or amended policy shall provide the substance and the reason for the proposed policy in writing. The Personnel Board shall hold a public meeting on any proposed policies or amendments. The Town Manager or designee and the Personnel Board shall, at their next scheduled meeting, consider the proposed policies and recommend that the Board of Selectmen adopt the policies, with or without modifications, reject the policies, or indicate that further study is necessary.

Recommended Policies

The recommendations of the Town Manager or designee and Personnel Board shall be forwarded in writing to the Board of Selectmen by the Personnel Board through the Town Manager. The recommendations shall contain the text of the proposed policy or amended policy, an explanation of the policy and the implications of the policy, and the action(s) thereon recommended by the Town Manager and the Personnel Board. The Board of Selectmen shall consider recommendations of the Town Manager or designee and Personnel Board; and may adopt, reject or return recommendations for further action. The Board of Selectmen need only act on proposed policies recommended for adoption. Policies shall become effective upon approval of the Board of Selectmen, unless some other date is specified. [Adopted policies](#), including the Compensation Plan, shall be kept on file in the office of the Town Clerk.

Section 7. Severability

The provisions of this bylaw and any policies adopted pursuant to this bylaw are severable. If any bylaw provision or policy is held invalid, the remaining provisions of the bylaw or regulations shall not be affected thereby.

Personnel By Law May 2018

~~I. PURPOSE AND SCOPE~~

~~This bylaw documents the personnel procedures of the Town of Upton and covers all employees of the Town of Upton, with the exception of elected officials and those employees under the jurisdiction of the Mendon-Upton Regional School District.~~

~~Those persons, boards, and committees endowed with the responsibility of management must ensure the proper administration of approved personnel procedures for their department. This bylaw may be amended, by a vote at a town meeting, as needed to keep pace with changing policies and legislation. Although no one has the authority to deviate from the bylaw, each manager does have the responsibility to notify, in writing, the Personnel Board when any provisions of the bylaw may no longer serve the best interest of the town, its departments, or its employees.~~

~~This bylaw aims to ensure compliance with all federal, state, and town laws, rules, policies and procedures as well as contractual commitments to our employees. If there are any conflicts between this bylaw and the specific terms of any collective bargaining contract duly entered into by the town, the specific terms of that contract will govern and will apply only to those employees covered by that contract.~~

~~II. DEFINITIONS AND DESCRIPTIONS~~

~~A. Employee~~

~~Persons who act on behalf of the Town of Upton, whether appointed or hired, and who receive compensation from the Town, with the exception of elected officials and those employees under the jurisdiction of the Mendon-Upton Regional School District. Employees are to be distinguished from Independent Contractors who are not governed by this bylaw.~~

~~B. Hiring Authority~~

~~Persons, Boards, and Committees specifically empowered to employ individuals on behalf of the Town. The Hiring Authority may include: Board of Selectmen, Board of Health, Library Board of Trustees, Board of Assessors, Town Clerk, Treasurer-Collector, Planning Board or Town Manager.¹~~

~~In many situations the Hiring Authority may delegate the execution of specific personnel matters to the appropriate Department Head or Supervisor. The level of involvement of the Hiring Authority must be established as part of the working relationship between the Hiring Authority and its Department Heads and Supervisors. The phrase "Hiring Authority" or its "designee" is used in instances in which the Hiring Authority may delegate its responsibilities. In any case, the Hiring Authority has responsibility for those activities delegated to its Department Heads and Supervisors.~~

~~C. Personnel Board~~

~~The Town shall establish a Personnel Board having all of the powers and duties described in this bylaw and in the General Laws of Massachusetts. The Personnel Board shall be composed of up to five members appointed by the Board of Selectmen for three year terms. Elected officials or employees of the Town shall not be appointed to the Personnel Board. As originally constituted, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years. Thereafter one or two members shall be appointed for terms of three years, so as to maintain five members.~~

~~At the beginning of each fiscal year the Personnel Board shall meet and elect one member as Chairperson. The Personnel Board shall meet as required. A quorum for the Personnel Board shall be three members and all matters will be decided by the vote of a majority of members present.ⁱⁱ~~

~~D. Personnel Coordinatorⁱⁱⁱ~~

~~The Town Manager or Selectmen's Designee shall act as the Personnel Coordinator. The Personnel Coordinator works under the guidance of the Chairperson of the Personnel Board. The duties of the Personnel Coordinator include:~~

- ~~● Maintaining central personnel files for each employee in the Town~~
- ~~● Posting all open positions~~
- ~~● Collecting resumes and applications for employment~~
- ~~● Maintaining personnel policies and documents~~
- ~~● Distributing revised personnel policies and documents~~
- ~~● Orienting new employees to Town policies and benefits~~

~~E. Exempt vs. Non-Exempt Employees~~

~~The Personnel Board is responsible for the classification of all Town employees as Exempt or Non-Exempt per the provisions of the Fair Labor Standards Act.~~

~~1. Exempt:~~

~~Those employees who are paid a salary and are not eligible for overtime. Exempt employees are expected to work those hours required to perform their job in a satisfactory manner.~~

~~2. Non-Exempt:~~

~~Those employees who are compensated on an hourly basis and who are eligible for overtime compensation. Non-Exempt employees must document hours worked.~~

~~F. Employee Types~~

~~1. Regular Full Time:~~

~~Those employees employed 40 or more hours per week for fifty two weeks per year.~~

~~2. Regular Part Time:~~

~~Those employees employed fewer than 40 hours per week, but for fifty two weeks per year.~~

~~3. Temporary:~~

~~Any employee hired for less than fifty two weeks per year (e.g., seasonal employees and fill-ins).~~

~~4. Stipend:^{iv}~~

~~Any employee/position whose hours are not regularly scheduled from week to week.^v~~

~~G. Independent Contractor~~

~~Independent Contractors are individuals who contract with the Town of Upton for the performance of specific tasks. Independent Contractors are not employees of the Town of Upton and are not covered by this bylaw. All independent contractors must supply the Town with a certificate of insurance and must complete any required tax forms.~~

~~The Town of Upton shall not enter into Independent Contractor agreements with current employees of the Town for duties, which are substantially similar to their regular job functions.~~

~~H. Longevity~~

~~This policy applies to all non-represented, non-contracted, full time and part-time benefit eligible employees.~~

~~Longevity (also known as Length of Service) in this policy refers to the attainment of a certain amount of Creditable Service in years, as of your Anniversary Date:~~

- ~~• Creditable Service shall be defined as the length of an employee’s uninterrupted service to the Town of Upton except for the exclusions below: Approved Leaves of Absence where an employee is also being paid by the Town through available paid time off (such as vacation, sick, personal and compensatory).~~
- ~~• Approved Military leave where and as required by law, for the length of Leave.~~
- ~~• Approved Unpaid FMLA, MMLA and Workers Comp Leave of Absence for up to 12 weeks within a calendar leave.~~
- ~~• Other approved time off where the law requires the approved time to be counted, Personnel Board will make any such determination based on the applicable statute or policy.~~

~~Longevity pay to eligible employees is subject to annual funding by Town Meeting.~~

Longevity payments will be provided to qualifying employee in a lump sum in June annually, such payment to be based on the number of consecutive years of creditable service to the town in positions in accordance with the following schedule.

10-14 years of service	\$	450.00
15-19 years of service	\$	500.00
20-24 years of service	\$	550.00
25+ years of service	\$	600.00

Part-time regularly scheduled employees who work at least 20 hours per week, are eligible for a pro-rated share of longevity pay based on the following formula:

X= the number of your scheduled weekly hours

$X/40 = Y$

Y equals the amount of Longevity Pay that equates to years of Creditable Service as defined above.

It is the responsibility of the Department Manager to notify the Town Manager, Finance Committee and all appointing authorities of the payment values that should be used and included in each department's budget.

The Personnel Board is the responsible board for determining any changes (additions, removals, increases or decreases) to the service time(s) which enable an employee to obtain Longevity Pay or the service intervals required to obtain any level of Longevity Pay.

There is no prorated payment made to employees who are separated from Town employment prior to their next Anniversary Date.76

III. TOWN EMPLOYEE CODE OF CONDUCT

A. Code of Conduct

The Town of Upton adopts an ethical code of conduct that recognizes that public employment is a public trust. This means that the affairs of government must be conducted openly, honestly, and impartially. When ethical standards falter or seem to falter, public confidence is destroyed and the problems, rather than the achievements, of government become focal issues for the public. In order to ensure the trust of the public, employees of the Town of Upton will, at a minimum, conduct themselves according to the specific standards of impartiality, objectivity, and integrity detailed in the "Code of Conduct for Public Employees" developed by the Massachusetts Office of the Inspectors General. A summary of the document is given below.

B. Code of Ethics

Professional integrity is the foundation of a respectable, well-run municipality. Ethics provide a guide for conduct by helping human beings order their values in particular

situations. In the case of conflicting values, ethical reflection helps people to decide which of their choices constitutes the paramount value. Awareness of ethical principles and reflection on the application of those principles to actual situations are essential to fulfilling the very public role of a municipal employee. In all cases, employees must be aware and self-reflective about how their daily conduct reflects or fails to reflect the values expressed by the town as an organization or the employee as an individual.

The key principles of professional ethics are as follows:

- EQUALITY:** Rendering a consistent quality of service to all, regardless of political affiliation and status. One achieves fairness by rendering no special favors.
- EQUITY:** Providing equal treatment in some cases and unequal treatment in others (e.g. Compensatory education for under privileged people, special job training programs, and subsidized housing)
- LOYALTY:** Being aware of one's ultimate loyalties (e.g. to the Constitution, the structures of Government, the law and to fellow employees)
- RESPONSIBILITY:** Accepting personal responsibility for all actions.

C. Conflict of Interest

All employees must complete State training on ethics. This must be done within 90 days of their date of hire and repeated every two calendar years during their employment. (Refer to MGL Chapters 268A and 268B).^{vi}

Employees of the Town of Upton are prohibited from:

- Using or attempting to use an official position to secure an unwarranted privilege.
- Giving a reasonable impression that they can improperly influenced in performing their official duties.
- Willfully disclosing or knowingly using confidential information that is not available to the public by law and is acquired in the course of official duties.
- Accepting outside employment that would impair independent judgment in exercising their duties.
- Having a direct or indirect financial interest in a contract made by any agency of the town.
- Accepting extra payments, gifts, or privileges beyond their salary in return for performing their job. This includes promises of future employment, favors, or services.
- Acting as an agent or attorney for anyone other than the town if the town is a party in the matter.
- Obtaining unfair advantages by the improper use of friendship, associations, or confidential information.
- Recruiting, hiring, transferring, promoting or firing members of their immediate family (the employee's spouse; and the parents, children, brothers and sisters of the employee or his or her spouse)

- ~~Using official authority to interfere with or affect the result of any election or nomination for office.~~
- ~~Enter into Independent Contractor agreements with the Town for duties, which are substantially similar to their regular job functions.^{viii}~~

IV. RECRUITMENT, SELECTION AND ORIENTATION OF EMPLOYEES

~~The Town of Upton strives to hire and retain the most qualified employees. The Town also maintains a policy of affirmative action in hiring. These goals guide the recruitment and selection of employees, including transfers, promotions, and job postings. The Town of Upton is an equal opportunity employer.~~

A. Requisition^{viii}

~~All requests to fill vacancies for Regular Employees are made by the Hiring Authority, or designee, on a *Personnel Requisition Form* forwarded to the Personnel Board. It is the Personnel Board's responsibility to establish and/or confirm the appropriate Job Title, Salary Grade and Salary Range for the position requested and will act within ten (10) working days of receiving the *Personnel Requisition Form*.~~

~~Before the recruitment process for a Temporary employee, the Personnel Board should be notified by the Department head or Hiring Authority that the process is beginning.~~

~~No position shall be created without being classified by the Personnel Board.~~

B. Recruitment*

~~The Personnel Coordinator is responsible for all postings and all requests for postings should be forwarded to the Personnel Coordinator.~~

~~All applications will be directed to the Personnel Coordinator who will be responsible for recording and distributing these to the appropriate department. The Town of Upton acknowledges its obligation to protect the privacy of employees and applicants by exercising all due consideration with respect to personnel records and will to the extent possible maintain the confidentiality of all applicants.~~

~~The Town of Upton maintains a policy of promoting from within and will, at least initially, advertise all *available* positions internally. Internal postings are open to all current employees, subject to the Town's conflict of interest policy.~~

1. Internal Posting*

~~Internal notices of vacancies will be posted for a minimum of five (5) working days before any action of employment is taken. Notice of vacancies will be posted on selected bulletin boards in the Town Hall. In addition, copies of posting will be sent to each department (e.g. Police Station, Fire Station, DPW Garage, and Town Library). Postings will include the position description, minimum qualifications, salary grade, and due date for receipt of applications. If the same position was posted internally~~

~~within 90 calendar days, the applicants from the previous posting should be considered prior to reposting the position.~~

~~2. External Posting~~

~~External recruitment may include notices of vacancies to job banks, community organizations and associations, and advertisements in newspapers, professional journals, or newsletters. Postings will include a brief position description, minimum qualifications, salary grade, and due date for receipt of applications.~~

~~Newly created positions will not be posted until approval and funding by a vote at Town Meeting.~~

~~Existing positions that have been vacated will be posted only after all potential promotional candidates are reviewed. Promotions must follow procedures set forth in Section Six (VI) C.~~

~~C. Applicant Screening and Selection^{*i,xii}~~

~~Applications will be accepted by the Personnel Coordinator within the period of time specified on the position announcement. All applications received after the deadline has passed shall not be considered, but will be retained in the event that the position must be reposted.~~

~~Once the application deadline has passed, the Hiring Authority, Department Head and a representative of the Personnel Board will screen all applications. Candidates who appear to meet the minimum requirements for the position shall be considered for interviews. In the event that there are more than five qualified candidates, the Hiring Authority, Department Head and representative of the Personnel Board may elect to interview only those candidates who appear to be most qualified. The Interview Team may recommend the position be reposted if it is in the best interest of the Town. It is important that the results of the screening and selection process are documented fully.~~

~~An interview team or search committee comprised of the Hiring Authority (or designee), Department Head (or designee from the Hiring Authority in the case of an available Department Head position) and a representative of the Personnel Board will interview those candidates most qualified for the position. Any additional interviewers will act in an advisory capacity. In some cases, repetitive interviews will be used to narrow the field of candidates. All interviews shall comply with applicable state law.~~

~~Following the interview, the interview team will verify references and will recommend to the Hiring Authority candidates (if appropriate, first, second, third choice) for employment, a proposed starting salary within the currently approved budget and employment date. The Hiring Authority will make final approval regarding employment, transfers, promotion, and starting salary of any prospective employee. Should the first recommended candidate not be hired, for any reason, the Hiring Authority may, at its discretion, extend an offer to other candidates if so recommended by the interview team.~~

~~The Hiring Authority's office will notify the Department Head, the Personnel Coordinator and the individual to be employed, promoted, or transferred of the starting salary and starting date. In the case of transfer or promotion, the Hiring Authority's Office will communicate with all affected departments in an attempt to determine a mutually compatible starting date.~~

~~All new employees shall supply proof of citizenship or valid verification of permission for employment in the United States (I-9 form). All payroll and personnel changes and additions necessitated by the employment, transfer, or promotion of any individual will be reported on the *Employee Action Form*. The *Employee Action Form* is the official record of employment status: It details every change in status including address, title, position, wage and salary adjustments, and longevity information. The employee's supervisor will complete the form and forward the form to the Department Head and the Hiring Authority for approval. To the extent possible, the *Employee Action Form* should be received by the Hiring Authority before the employee begins employment with the Town. Upon receipt and approval, the Hiring Authority will forward copies to the Treasurer Collector or Town Accountant, the Department Head, the Personnel Coordinator and the Personnel Board.~~

~~D. Pre-Employment Medical Examination~~

~~All persons selected for regular full-time and regular part-time labor service employment with the town, after receipt of a conditional offer of employment and prior to the starting date of employment shall undergo a medical examination to determine whether the candidate is able to perform the essential functions of the position with or without reasonable accommodation. All other positions shall be reviewed by the Personnel Board to determine whether a pre-placement physical is needed. The examination shall be at the expense of the town by a physician or medical institution selected or approved by the Town Manager. The examining physician shall advise as to whether or not, in the opinion of the physician, the applicant is able to perform the essential functions and duties of the position with or without reasonable accommodation. If deemed unable to perform the essential functions of the position with or without reasonable accommodations the Town Manager or other appointing authority shall withdraw the conditional offer of employment. 77~~

~~E. Introductory Period^{xiii,xiv}~~

~~Each new regular employee, including current employees promoted to new positions,^{xv} except for employees transferring/promoted to positions within the same Division/Department, will be subject to a six (6) month period of probation which will conclude with a performance review, performed by the Hiring Authority or its designee. The introductory period^{xvi} may be extended at the discretion of the Hiring Authority or its designee. The introductory period^{xvii} will end with the probationary employee either being discharged or made a regular employee of the Town of Upton.^{xviii} During the introductory period^{xix}, employees working a regularly scheduled week of 20 or more hours will accrue sick and vacation time, but may not use these benefits until after the~~

introductory period^{**}. Termination of probationary employees is not subject to grievance procedures.

F. Employee Orientation

Employees who feel comfortable in their surroundings are more likely to be productive, safe, and satisfied employees. Orientation to Upton municipal offices and procedures is essential for new and transferred employees. The goals of orientation are to:

- Familiarize new employees with the physical layout of their new offices and the municipal environment.
- Help new employees develop favorable impressions of the organizations, the job and fellow workers
- Satisfy employee needs for security and acceptance
- Familiarize the new employee with all applicable Town and Departmental Policies, Procedures, and bylaws.

All new employees will report on the starting date to the Hiring Authority, or its designee, who is responsible for giving each new employee an overview of the structure and function of Upton town government. This description should include an explanation of how the employee's job relates to the others within an office and in the town as a whole. All new employees should be introduced to every person with whom they will come into contact and should be told where to go for information and assistance. Supervisors are also responsible for job-specific, on-site training and orientation regarding detailed explanation of the job they are expected to perform and should be given a current copy of their job description. This introduction should include detailed explanations and illustrations of work procedures and equipment, including hands-on use of equipment under the direction of the supervisor. Safety issues should be stressed during this orientation.^{**i}

The new employee will also meet with the Personnel Coordinator who is responsible for explaining the Town's Personnel Policies and Benefits and terms of employment. The new employee shall sign acknowledging receipt of the Personnel By-Law of the Town of Upton.^{**ii} In addition, the Personnel Coordinator will give the new employee the summary of the State Ethics Law, receipt of which will also be acknowledged with a signature, which will then be filed with the Town Clerk. The new employee will be reminded to complete the State Ethics training on-line within 90 days and to provide the Town Clerk with their certificate of completion. All appropriate forms (e.g. income tax deductions, life insurance, group health insurance, and retirement forms should also be completed during this meeting with the Personnel Coordinator.

G. Access to Personnel Files

Each employee has a personnel file in the Town Hall, maintained by the Personnel Coordinator. In this folder are employment history, application and/or resume, attendance records, accident reports correspondence pertaining to the employee or job, records of courses or special training received, job performance evaluations,

documentation of disciplinary action, and documentation of any grievances filed by the employee.

Access to these files IS LIMITED to the employee's Supervisor, Department Head, Hiring Authority, Personnel Board and the Personnel Coordinator. The Personnel Coordinator shall maintain a record of those persons examining each file. An employee may review his or her file at a time convenient to the employee and the Personnel Coordinator. The employee may make copies of the information within the file but may not remove any information from the file. The Administrative Staff within the Board of Selectmen's Office is granted access to these files for the purposes of record keeping. However, they are not to grant others access except at the request of one of the aforementioned individuals.*xiii

~~V. WAGE AND SALARY ADMINISTRATION~~

~~A. Position Classification~~

It is the responsibility of the Personnel Board to maintain a position Classification Plan. This plan is the basis of establishing equitable pay scales, recruiting qualified employees, and performing necessary administrative tasks. Position classification aims to equitably group positions into a series of Salary Grades on the basis of the requirements and responsibilities of the position.

The Personnel Board is responsible for developing and maintaining a series of criteria, which are used to evaluate each position in the Town of Upton. The criteria (e.g. required knowledge and experience) are chosen to independently measure those characteristics for which each position is compensated.

The Personnel Board in conjunction with the Hiring Authority, or designee, will rate each position within the Town using each of the chosen criteria. These criteria may also be weighted so as to better reflect their impact upon a position's responsibilities. The weighted totals of the criteria rankings are then used to group positions into a series of Salary Grades. The Salary Grades will then each contain positions requiring approximately equal requirements and responsibilities.

~~B. Reclassifications~~

The Personnel Board is committed to maintenance of the Classification Plan to assure recognition, through reclassification, of positions that expand or diminish in levels of responsibility and duties. The Personnel Board shall reevaluate all positions at intervals not to exceed five (5) years. If there is a significant problem before the reevaluation, the Hiring Authority, or designee, shall take the following steps.

- ~~1. The Hiring Authority, or designee, shall request a classification review. Written requests should be submitted to the Personnel Board. The Hiring Authority should document the basis for requested reevaluation of position classification.~~

~~2. The Personnel Board is responsible for researching and investigating the reclassification request. The request must be recognized at the next official Personnel Board meeting and within twenty (20) working days the Personnel Board will have prepared a written response and timetable for action. The response will include a recommendation for action and justification for the recommendation.~~

~~**C. Title of Positions & Job Descriptions**~~

~~The Personnel Board is responsible for the establishment of Position Titles and for the grouping of similar positions together under common titles. The Position Titles developed by the Personnel Board shall be the Official titles for all purposes having to do with the position, and shall be used to designate the position in all payrolls, budget estimates and official reports, and in every other connection involving personnel and fiscal processes. No person shall be appointed, employed or paid as an employee in any position under any title other than those developed by the Personnel Board, nor shall any person be employed unless he shall actually perform the duties and tasks of that position.~~

~~The Personnel Board shall maintain current approved written job descriptions of all positions. These position descriptions shall conform to all ADA guidelines. Each contains a statement describing the essential nature of the work and characteristics that distinguish the position from other positions. The Hiring Authority, or its designee, and the Personnel Coordinator shall be required to retain current job descriptions and to submit suggested revisions to the Personnel Board for review and disposition.~~

~~**D. Compensation Plan**^{xxxx}~~

~~It is the responsibility of the Personnel Board to develop and recommend a Compensation Plan that establishes salary ranges for each of the Salary Grades in the Town of Upton. The Compensation Plan will be used to make salary recommendations at town meetings and during the hiring process. The Compensation Plan will reflect the high standard the town holds for its employees and establish a salary structure that enables the Town of Upton to recruit, retain and reward highly qualified employees. In order to compensate employees with salary ranges that are equal to the median of comparable communities, the Personnel Board will determine and recommend annual adjustments to the Compensation Plan. The entire Compensation Plan will be reviewed at intervals of no more than five (5) years.~~

~~**E. Overtime**~~

~~The Town of Upton shall pay non-exempt employees at a rate of one and one half times the base hourly rate for hours worked beyond forty (40) per week in accordance with the Fair Labor Standards Act. All overtime must be approved by the Hiring Authority or its designee. Hours worked will not include any sick time, vacation time, personal leave, or other leaves of absence whether paid or unpaid used during the week.~~

~~Exempt employees are compensated on a salaried basis, regardless of the number of hours worked.~~

VI. EMPLOYEE DEVELOPMENT

A. Performance Evaluation

To ensure impartiality in the selection of employees for work assignments, training, promotions, and salary increases; to promote understanding between employees and supervisors and to ensure the most effective utilization of personnel, each employee shall receive an orderly, objective, and accurately documented review of his or her work performance once a year. The performance evaluation is to provide a forum for employees and supervisors to assess work performance, compare it with standards set by Department Heads and help the employee develop training needs and future performance goals for strengthening performance and enhancing job satisfaction.

The Personnel Board is responsible for the development and maintenance of an *Employee Evaluation Form*, which will be used for all employees. Employees are to be evaluated prior to the completion of their introductory period^{xxxv} and at the end of each calendar year thereafter. An Employee Evaluation form will be completed for each employee by the immediate supervisor who will record his or her judgment on the performance review form. This review is a forum for supervisors and employees to discuss job performance strengths and weaknesses. This review also provides a chance for supervisors and employees to review the progress made toward fulfilling current and past goals and to set formal goals for the upcoming year. Both the employee and supervisor must sign and submit this form to the Department Head and Hiring Authority for review. The Hiring Authority is responsible for submitting fully completed forms to the Personnel Coordinator who will include them in the employee's file.^{xxxvi}

Although this review is formally completed only once annually, employee performance evaluation is an ongoing process that should provide feedback, both congratulatory and constructive, and increase two-way communication between the supervisor and the employee. The performance evaluation should be conducted in a confidential manner and privately with an employee. Supervisors are not to discuss compensation issues (annual adjustments) during the evaluation review.^{xxxvii} This is not the purpose of the review and will be determined at a separate time.

All employees must sign the form in order to indicate that they have read their performance evaluation and that it has been explained to them by the supervisor. The signature does not in any way connote agreement with its contents. An employee who disagrees with the employee performance review may submit an addendum or may request, in writing, a reevaluation using the Town's Grievance Procedure.

B. Salary Review

The Town of Upton conducts salary reviews annually to recommend salary increases to the Town on a merit system. Employees' salaries within the salary structure are based on job knowledge and performance.

The policy of the Town of Upton is to grant its personnel salary increases for meritorious work performance on the recommendation of the employee's immediate supervisor and Hiring Authority. These increases are not automatic, nor do they result from tenure. Increases should result in the employee's salary progressing through the salary range in accordance with the performance rating received from his/her evaluation. In preparing a salary adjustment recommendation, consideration should be given to:

1. Employee's performance during entire evaluation period.
2. Position of the employee's salary within the applicable salary range
3. Period of time since the employee's salary was last adjusted^{xxxviii}
4. Wage guidelines from the Personnel Board and the Finance Committee

Department Heads will be responsible for recommending salary adjustments to the Personnel Board, the Hiring Authority, the Finance Committee and ultimately to the Town at town meeting. Salary adjustments will ordinarily be voted at the annual Town meeting and will be effective July 1.

If the salary adjustment process indicates that the position is currently being paid above the maximum for the current salary grade level, the Department Head should complete and submit to the Personnel Board a request to reevaluate the position under Section V.B. of the Personnel By law regarding Reclassifications.^{xxxix}

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C. Promotions^{xxxix,xxxix}

It is the policy of the town to hire and retain the most qualified employees. Accordingly, employees may be promoted to new positions. There are two types of promotions, Available Position Promotions and Reclassification Promotions. The Personnel Board has the responsibility to determine whether a promotion is an Available Position Promotion or a Reclassification Promotion. All available positions are subject to recruitment procedures as described in Sect. IV part B.

1. Available Positions

Available position promotions occur as a result of an existing position being vacated or a new position being created. When a position is vacated, the Hiring Authority or designee will review current staff for promotional eligibility. A recommendation of the most qualified candidate, (based on e.g. merit, qualifications) will be made to the Hiring Authority and the Personnel Board consisting of performance record, qualifications (education, years' experience and other criteria) recommended salary, and any other action to be taken for approval.

2. Reclassifications

Reclassification Promotions result when the duties and responsibilities of a position have increased sufficiently to justify an increase in the position's Salary

~~Grade. This type of promotion results in the elimination of one position and the creation of a new position at a higher salary grade. This type of promotion will not result in another position being vacated, does not require posting and will not necessarily result in a salary increase.~~

~~**D. Training and Career Advancement Opportunities**~~

~~The Town of Upton encourages both individuals and institutional training programs and opportunities. All employees are encouraged to plan their careers and gain new skills for personal advancement. It is the responsibility of the Supervisor and the Department Heads to ensure that their employees are given guidance in selecting training programs specific to their positions. During an employee's evaluation the employee and supervisor should identify a career path and plot a training/education program that will promote progress toward that goal.^{xxxxii}~~

VII. CONDITIONS OF WORK

~~**A. Alcohol and Drug Use**~~

~~Except when required in official performance of duty (such as breathalyzer demonstrations by police officers) the use or possession of alcohol at the work place, coming to work or returning to work under the influence of alcohol will not be tolerated. Violation shall constitute just cause for immediate disciplinary action including termination.~~

~~No controlled substance shall be used or possessed by any employee during work hours of such employee, including all breaks and meal periods. Violation shall constitute just cause for immediate disciplinary action including termination.~~

~~The Department of Public Works shall, in accordance with applicable federal and state laws, prepare and administer a policy describing drug and alcohol testing of all employees required, for performance of their jobs, to hold a Commercial Driver's License.~~

~~**B. Grievances^{xxxxiii}**~~

~~All employees have a right to have grievances and concerns regarding employment heard in a fair, equitable, and timely manner. A grievance is defined as a question regarding the interpretation or application of a specific portion of the Personnel By-law. The decision to air a grievance will not result in any penalty to the employee, regardless of the final decision. All steps in the grievance procedure must be thoroughly documented in the employee's personnel file.~~

- ~~1. The employee should raise any questions, concerns, or grievances with the immediate supervisor. The employee and supervisor are encouraged to work together to resolve the problem at this level. If the employee is still not satisfied, the employee may, within ten (10) working days of the immediate supervisor's decision or failure to act, submit a written grievance to the Department Head.~~
- ~~2. The Department Head will meet with the employee to discuss the case within ten (10) working days and will provide the employee with a response within ten (10)~~

~~working days of their meeting. If the employee is still not satisfied, the employee may submit a written grievance to the Hiring Authority.~~

- ~~3. The Hiring Authority will meet with the employee to discuss the case within ten (10) working days and will provide the employee with a response within ten (10) working days of their meeting. If the employee is still not satisfied, the employee may submit a written grievance to the Personnel Board.~~
- ~~4. The Personnel Board will meet with the employee to discuss the case within ten (10) working days. Based on the written grievance and any other information presented, the Personnel Board will make a final determination concerning the case within ten (10) working days of their meeting. If the employee is still not satisfied, the employee may submit a written grievance to the Board of Selectmen. However, if any member of the Board of Selectmen is a direct party to the grievance, the process will end at Step 4 and the employee shall have no further right of appeal.~~
- ~~5. The Board of Selectmen will meet with the employee to discuss the case within ten (10) working days. Based on the written grievance and any other information presented, the Personnel Board will make a final determination concerning the case within ten (10) working days of their meeting. The employee shall have no further right of appeal.~~

~~Based on the small departments within the Town of Upton, it is acknowledged that while there are 5 steps in this process, steps 2 and 3 or steps 3 and 4 will often involve the same parties and thus may be redundant for a high number of town employees.~~

~~Employees may bring fellow employee(s) during the grievance review to act as witnesses and should supply evidence supporting their case. Time limits may be extended with the agreement of both parties. The decision of the Board of Selectmen is final and binding.~~

~~C. Harassment~~ ^{xxxxiv,xxxxv}

~~The Town of Upton does not condone any behavior that promotes an intimidating or hostile working atmosphere for any of its employees. The inappropriate conduct of one employee should never have the purpose or effect of interfering with another employee's work performance or of creating an intimidating, hostile, or offensive work environment. The employees of the Town of Upton should accept individuals and promote teamwork and cooperation rather than polarization and exclusion. Consequently, the Town of Upton upholds a strict code of conduct regarding harassment and will take appropriate action against offenders.~~

~~Sexual Harassment is unlawful, violating Title VII of the Civil Rights Act of 1964, as amended, and Massachusetts General Law (M.G.L. c. 151B).~~

~~Harassment includes but is not limited to: (1) conditioning or threatening to condition concrete employment benefits on sexual favors; and (2) creating a hostile or offensive working environment. A hostile work environment occurs when employees are subjected to~~

~~unwelcome sexual advances, requests for sexual favors, intimidation, ridicule, and insults and other verbal or physical conduct of a racial, sexual or other nature that has the purpose or effect of unreasonably interfering with an individual's work performance.~~

~~Any employee, who believes he or she has been the subject of harassment, may first attempt to resolve the problem through discussion with the harasser. In cases in which discussion of the problem with the person presents particular stress or difficulties, the complainant may consult on an informal and confidential basis with any member of the Board of Selectmen.~~

~~If an employee who in good faith believes he or she has been the subject of or has witnessed harassment and would like to file a formal complaint, he or she is encouraged and requested to report the offensive conduct to the employee's supervisor, and the Board of Selectmen in writing. Refer to the Harassment Policy, available from the Personnel Coordinator for full details.~~

~~All reports of harassment will be taken seriously and responded to immediately. Any employee found to have engaged in harassment will be subject to appropriate discipline. Courses of action may include verbal warning (written), written warning, counseling, probation, suspension, or discharge.~~

~~Harassment may result from conduct by the employee or the employee's agents, vendors, supervisory employees, coworkers or non-employees. Harassment may also result from conduct occurring either on or off the worksite.~~

~~Harassment refers to behavior which is unwelcome. Examples of conduct that a reasonable person might find hostile or abusive include: unsolicited remarks, gestures, physical contact, display or circulation of sexually suggestive or insulting written materials or pictures that debilitate morale, and that therefore interfere with work effectiveness.~~

~~**D. Safety Policies and Procedures**~~^{xxxxi}

~~All employees have the responsibility to use good judgment and to follow all policies and procedures. Maintaining safe working conditions requires the cooperation of town management and employees. Management has a responsibility to locate and define potential safety problems within the workplace and to establish safety policies and procedures. The town has an obligation to maintain safe working conditions and to inform employees of existing safety policies and practices particular to each department. Departments should develop their own Safety Policies.~~

~~The Hiring Authority and the Personnel Coordinator shall be notified immediately of all accidents. The Department Head should conduct a full investigation with the appropriate organizations (i.e. Health care) when an accident occurs on the job. The finding should be sent to the Hiring Authority and Personnel Coordinator for proper disposition.~~

~~Any work related injury where recovery lasts for more than 30 work days is automatically subject to the Early Intervention Plan described in M.G.L. Chapter 32, Section 5B. At such~~

time as a work related injury requires this intervention, the Personnel Coordinator shall be notified in order to begin the assembly of the required team of partners who will follow the employee's rehabilitation and return to work.

All individuals driving or riding in a town-owned vehicle are required to wear a seat belt. In addition, proper on-site first aid, CPR, or other life-sustaining techniques should be known by employees in high-risk jobs in order to avoid further injury.

~~E. Attendance and Hours of Work~~

~~The Hiring Authority, or its designee, is responsible for establishing work schedules for their areas of responsibility. The Hiring Authority, or its designee, is responsible for ensuring that employees under their charge comply with work schedules, including vacation and sick time, and are counseled for failing to meet same.~~

~~The Town of Upton does not compensate its employees for mealtime.~~

~~All nonexempt employees must account for the hours worked. Timecards must be completed and signed by each non-exempt employee, and also signed by his or her supervisor. No one other than the employee may fill out his or her timecard except in cases of extended illness. Any violation of the timecard policy will result in disciplinary action.~~

~~Emergency Closing Policy~~^{xxxxiii}

~~This policy shall cover all employees of the Town of Upton, even those not under the direct responsibility of the Board of Selectmen.~~

- ~~1. The Town of Upton has always taken the position that we must remain open, even during inclement weather conditions. However, as important as it is to remain open to support the residents of the town and their needs, it is as important that our employees travel to and from work safely. During inclement weather, employees should consider their local weather conditions, but we do expect all employees to make a concerted effort to get to work, even if they arrive beyond the normal starting hour.~~
- ~~2. All public safety employees and those who work in Public Works should plan to report for duty. Police, Fire, and Public Works personnel play a critical role in public safety during a snow event in clearing the roads and responding to emergencies.~~
- ~~3. Employees who work in other departments should follow the news to understand whether the Governor has determined that those employees in non-essential positions (i.e. not public works, police, fire) should either not report to work, or should report at a later time than their normal start time. Employees can also check the local television stations, or you can also check the State's website (<http://www.mass.gov>) for updates.~~
- ~~4. The Board of Selectmen's Office will develop a system to notify employees.~~

- ~~5. Any employee who cannot get to work or needs to leave early due to inclement weather is expected to contact his/her immediate supervisor regarding his/her local situation. The employee should make every reasonable effort to speak with the supervisor or manager directly or with the next level of management, rather than leaving a message.~~
- ~~6. If it happens that the government will not adjust working hours, then employees should plan to report to work at their scheduled time.~~
- ~~7. An employee that is either not able to report to work due to the snow or makes a personal decision not to drive in such conditions may elect to use their own accumulated vacation time to stay home from work. Those employees who had already scheduled to be off on a day when such an event happens must still plan to take the time off that they planned.~~

~~F. DOMESTIC VIOLENCE LEAVE ACT POLICY^{xxxxviii}~~

~~I. PURPOSE~~

~~This Policy describes the eligibility and procedural requirements relating to the administration of leave taken pursuant to the Massachusetts Domestic Violence Leave Act, G.L. c. 149, §52E (“DVLA” or “the Act”).~~

~~II. APPLICATION~~

~~This Policy applies to all employees of the Town of Upton (“Town”). Employees whose employment is governed by a collective bargaining agreement are subject only to those provisions of this Policy not specifically regulated by law or agreement.~~

~~III. POLICY~~

~~The Town is committed to complying with the DVLA, as it may be amended from time to time. In the event of any conflict between the Town’s DVLA policy and the state law and any applicable regulations, the state law/regulations applicable to the Town and its employees shall prevail.~~

~~IV. PROCEDURES~~

~~A. Eligibility~~

~~To qualify for domestic violence leave under the DVLA, an employee or a covered family member must be the victim of “*abusive behavior*.” “*Abusive behavior*” includes any of the following behaviors: domestic violence, stalking, sexual assault, or kidnapping.~~

~~*Domestic violence* is abuse against an employee or a covered family member by a current or former spouse, a person with whom the victim shares a child, a person cohabitating with or who has cohabitated with the victim in the past, a~~

~~relative by blood or marriage, or a person with whom the employee or family member has or had a dating or engagement relationship.~~

~~A Covered family member includes a spouse, parent, step-parent, child, step-child, sibling, grandparent, grandchild, persons in a substantive dating relationship or who reside together, persons having a child in common, or persons in a guardian relationship. In the case of abuse of a family member, the employee is not entitled to leave if he or she is the alleged perpetrator.~~

~~B. Duration of Leave~~

~~If an employee or a covered family member of the employee is a victim of abusive behavior, he/she may take up to fifteen (15) days of unpaid leave in any 12-month period.~~

~~Employees may substitute paid leave before taking leave under the DVLA.~~

~~C. Reasons for Requesting Leave~~

~~Employees may request leave to address issues directly related to the abusive behavior. This includes seeking medical attention, counseling, or victim services. Leave may also be taken to obtain legal assistance, to attend or appear in court proceedings, or to meet with a district attorney or law enforcement personnel. It is not a requirement of the Act that the employee maintain contact with the alleged abuser before being eligible for leave.~~

~~D. Notice~~

~~Employees must provide sufficient advance notice of the decision to use domestic violence leave, unless there is a threat of imminent danger to the health or safety of the employee or a member of the employee's family. An employee who does not give advance notice must notify the employer within three (3) work days that leave is being taken pursuant to the DVLA. The notice may be provided by certain specified individuals other than the employee.~~

~~If an unscheduled absence occurs, the employee has 30 calendar days to produce documentation of the need for leave, in accordance with paragraph E, below.~~

~~E. Documentation~~

~~Employees taking leave pursuant to the DVLA may be required to provide documentation evidencing that the employee or employee's family member has been a victim of abusive behavior. If requested, an employee is required to provide such documentation within a reasonable period after the request is made. An employee can satisfy this requirement by providing any one of the following documents:~~

- A protective order issued by a court as a result of abusive behavior against the employee or employee's family member;
 - A document under the letterhead of the court, provider or public agency which the employee attended for the purposes of acquiring assistance as it relates to the abusive behavior;
 - A police report or statement of a victim or witness provided to police, including a police incident report, documenting the abusive behavior;
 - Documentation that the perpetrator of the abusive behavior against the employee or family member of the employee has admitted to sufficient facts in court, or has been convicted of any offense constituting abusive behavior;
 - Medical documentation of treatment as a result of the abusive behavior;
 - A sworn statement provided by a counselor, social worker, or health care worker who has assisted the employee or the employee's family member;
- or
- A sworn statement from the employee attesting that the employee has been the victim of abusive behavior.

F. Return to Work

Employees who take leave pursuant to the DVLA will be restored to their original or equivalent position upon return from leave unless circumstances unrelated to the employee's use of leave would have caused a change in employment status. The Town shall not retaliate against an employee for exercising his/her rights under the DVLA.

G. Confidentiality

With limited exceptions set forth by law, information related to the employee's leave shall remain confidential.

G. Electronic Devices & Social Media^{XXXX}

Electronic Communications:

The Town of Upton ("the Town") owns and maintains the following forms of electronic communication: internal and external electronic mail (e-mail), voice mail, Intranet and Internet access ("Systems"). These Systems exist in order to further the Town's interests and support its operation and mission.

Some limited, non-business use is acceptable provided that the non-business use does not interfere with the Town's business needs or operation and does not violate state or federal law or any aspect of this policy.

All electronic communication systems are the property of the Town. All passwords, messages, attachments composed, sent, or received are the Town's property. Users should not consider any message or retained files to be private.

Personal Social Networking:

Use of social networking sites during work hours or on equipment owned and/or maintained by the Town of Upton is strictly prohibited, and is governed by the “Electronic Communications Policy” distributed to employees upon the start of employment and annually thereafter. The Policy also provides guidance with regard to the personal use of social networking sites during non-work hours and on equipment not belonging to the Town of Upton.

Because of the Town’s substantial interest in maintaining a professional, collegial, confidential, and impartial workplace, it is imperative that all Town employees who engage in use of social networking sites, such as Facebook, MySpace, Twitter, or Bebo, accept the terms of the Policy and any such additional related policies that may be issued by the Town. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. Employees are encouraged to remember that information posted on the internet can be easily traced back to its author, and should think before posting information to any online source. Statements made by employees pursuant to their official duties are not insulated from discipline because they occurred on social networking sites. The list of social networking sites contained above is not intended to be exhaustive, and shall be deemed to include any social networking sites in existence at the time a policy is reviewed by the employee, or created thereafter.*†

VIII. TERMINATION OF EMPLOYMENT

A. Resignation*‡

The Town of Upton requests that all employees present a statement of resignation to their Supervisor in writing at least two (2) weeks prior to the date of resignation. Earlier notification is always appreciated.

All employees should participate in an exit interview, designed to elicit information about the reason(s) for termination and conditions of employment. The Personnel Coordinator*‡‡ should conduct this interview and use the information gathered through these interviews to pinpoint problem areas within the organization.

B. Progressive Discipline

The purpose of disciplinary action is to correct undesired conduct, behavior or productivity problems, and in doing so to help an employee become a better employee. Disciplinary action is designed to correct improper performance once it is shown the employee knew or should have known, what was expected from him or her and that he or she was capable of performing properly but failed to do so. Disciplinary action will be taken if an employee impairs departmental operations, either through activity disruptive behavior or through non-performance of assigned responsibilities. Disciplinary action may result from, but is not limited to, incidents where:

- the Town’s public image has been seriously damaged
- serious risks of liability have been created

- ~~employee safety has been seriously compromised~~
- ~~an employee displays inappropriate chronic absenteeism or tardiness~~
- ~~an employee refuses to carry out direct orders or instructions~~
- ~~an employee is unable to perform assigned tasks~~
- ~~an employee has demonstrated, directly or constructively, that less severe corrective action did not change performance significantly.~~

~~Employee culpability is an important element in the decision to use disciplinary action. Culpability means the employee violated the directive purposely, recklessly, negligently or without due regard for the explicit and intended meanings in official directives, orders and memorandums. Performance deficiencies caused by employee culpability shows a lack of regard for the Town or department's mission, therefore, they are treated as a more serious problem than are errors due to ignorance or lack of ability, even though the results are the same or similar. When it is established through substantial evidence that employee culpability exists and immediate termination is not warranted, progressive discipline shall be the appropriate resolution.~~

~~It is the policy of the Town of Upton to avoid terminating an otherwise productive employee when performance problems occur. A preferred practice is to use progressive disciplinary action to bring about change once it is shown that an employee knew or should have known that such conduct, behavior, or work productivity failed to comply with established directives, provided that:~~

- ~~the conduct, behavior or performance was not caused by a lack of skills or ability that the typical employee would not be expected to possess.~~
- ~~prior to taking such disciplinary action, other lesser forms of action, such as supervisory counseling were appropriate to use and were followed.~~

~~When discipline is deemed appropriate, it is policy to use a progressive system, when practicable. Furthermore, discipline shall be for cause and shall follow the basic concepts of due process as established by administrative procedures. The Town does not intend to illegally discriminate against current employees or potential employees on the basis of sex, ethnic background, race religion, color, age or physical disability in any disciplinary or termination proceedings. Whenever disciplinary action is used, an employee will be informed in writing of the following specific elements:~~

- ~~the nature of the offense~~
- ~~additional administrative action deemed appropriate~~
- ~~what the employee must do to avoid future disciplinary action~~
- ~~how much time the employee has to correct the problem^{xliiii}~~
- ~~what further disciplinary action will occur if performance does not improve~~

Progressive Discipline consists of the following steps:

1. Written Warning

Written warnings are written records and the first step in the progressive discipline system. They are intended to be the least form of discipline. To be effective, however, written warnings must be timely; otherwise the employee may believe that future infractions will be tolerated.

2. Written Reprimand

A written reprimand is the second step in discipline, unless circumstances of the case justify a higher level of discipline, in which case this step can be bypassed.

3. Suspension

Suspension is a serious intervention and occurs when an employee fails to respond positively to lesser forms of discipline. Suspension can also be the first step in progressive discipline if the act, and/or the result of the act, is serious enough that a written warning or reprimand would not promote the intent or spirit of the purpose and need for disciplinary action.

4. Termination

All employees are subject to termination for the following general conditions:

- Consistent performance failure(s) or a single performance failure that results in serious consequences to the Town's public credibility or ability to do business in an effective and efficient manner, with or without fault.
- Decisions of administration as permitted and retained by law (e.g. abolition of position; layoff because of lack of money)

Termination for performance failure (through acts of omission or commission while on or off the job) can occur. While no attempt is being made here to list all situations that may result in such removals, the following examples illustrate the kinds of failure that could lead to a cause of termination: insubordination; threatening a supervisor; fighting and assaults; provoking a fight or assault; forbidden harassment; endangering another; drug or alcohol abuse; theft; false reporting and situations where performance is not reasonably expected to improve. Situations where performance is not reasonably expected to improve include past failures to respond positively to progressive discipline; habitual violations of directives; work effort requiring excessive supervision after reasonable training has occurred to prepare the employee for the duties and responsibilities of the position; the employee's failure to learn the informal aspects of the job not covered by formal training but that are reasonable to expect of a competent employee who has gained knowledge and experience from the normal work environment; and the employee's failure to accept the Town or department's purpose, mission, and/or code of ethics.

If an employee's performance requires an investigation, the employee may be placed on paid administrative leave pending the outcome of the investigation. Depending on the findings, the employee may be terminated. If this occurs employees are provided with information that includes:

- The reason for the termination
- The effective date of the termination

IX. EMPLOYEE BENEFITS ^{xliiv,xlv,xlvi}

A. Vacation

As of July 1, 2012, regular full-time, and regular part-time employees who work 20 or more hours per week, are eligible for paid vacation time as described below: Vacation time is earned on an accrual basis. The accrual rate is shown in the table below.

Vacation Hours are calculated using the following formula:

(Regular Hours Worked) times (Accrual Rate Factor) equals Vacation Hours

Years of Service	Accrual Rate Factor	FT Hours	Vacation
Less than one	.0192	2080	40 Hours
One but less than five	.0385	2080	80 Hours
Five but less than ten	.0577	2080	120 Hours
Ten but less than twenty	.077	2080	160 Hours
Twenty or more ^{xlviii}	.0962	2080	200 Hours

Example: [employee of 1-5 years]: 1,040 hours worked / year [20 hours per week] x 0.0385 = 40 hours = 2 weeks.

Probationary employees will accrue vacation days but will not be allowed to use this benefit until it is earned, at the end of their introductory period. ^{xlviii}

Employees are allowed to carry over up to (10) days' vacation into the following fiscal year with the recommendation of the Department Head and approval of the Hiring Authority. The Department Head should manage this situation to ensure the time is used within a reasonable time frame.

While vacation hours are accrued and carried over based on the Town's fiscal year, the employee's anniversary date is used to calculate the number of years worked for purposes of the accrual rate. Thus, an employee's vacation accrual rate will increase within a week of their anniversary date when crossing the one-, five-, ten-, fifteen-year, or twenty-year mark for service to the Town of Upton.

The schedule of vacation time must be approved by the Department Head. Department Heads must have their vacation time approved by the Hiring Authority.

A lump sum payment will be made to employees who terminate employment with a positive balance of unused accrued vacation time. The last day of actual work is the termination date for the employee. Employees may not add unused vacation days to their last day actually worked in order to postpone their termination date, whether to accumulate more vacation time, prolong insurance benefits, or for any other purpose.^{xiii}

~~B. Sick Timeⁱⁱ~~

~~Regular full time, and regular part time employees who work 20 or more hours per week, every week, shall accrue sick time at the rate of 15 days per year. The accrual rate shall be calculated using the following formula: Regular Hours Worked times 0.0577 equals Sick Time Hours earned. Unused sick days shall accumulate from year to year to a maximum accumulation of 40 daysⁱⁱⁱ. Probationary employees will accrue sick time but will not be allowed to use this benefit until their introductory periodⁱⁱⁱⁱ is over.~~

~~Example: 2080 hours [full year] x 0.0577 = 120 hrs. = 15 days~~

~~For periods of absence from work of three days or more, a physician's certificate shall be required upon return to work. Unlike unused vacation days, which are paid to an employee upon termination, unused sick time is not paid to the employee. It reverts back to the Town of Upton.^{iv}~~

~~C. Medical Plan~~

~~Regular Full time employees may voluntarily enroll in the Town's group Medical Plan as now offered by Blue Cross/Blue Shield and a Health Maintenance Organization. Payment for the coverage will be made 75% by the Town and 25% by the employee for Blue Cross/Blue Shield, and 75% by the Town and 25%^{lv} by the employee for the Health Maintenance Organization.~~

~~Voluntary Waiver Of Health Insurance For Enrollment in Health Insurance Opt-Out Program:~~

~~In return for the agreement to waive Town health insurance coverage, the Town agrees to pay an eligible employee one of the following amounts:~~

- ~~(1) \$1,500.00 for waiving individual health insurance plan coverage, or;~~
- ~~(2) \$3,000.00 for waiving family health insurance plan coverage~~

~~The Town will make the above payment at a rate of \$125.00/month (individual plan) or \$250.00/month (family plan) on or about the last pay period in each month that the employee deferred coverage from the Town. The opt-out payments will be subject Federal, State, and Medicare taxes.~~

To be eligible an employee must not have an outstanding court order or agreement requiring the employee to provide health insurance coverage for the employee's spouse, ex-spouse, or dependent children, if any.

To be eligible, an employee must completely remove themselves as either a subscriber or dependent on the Town's health plan. A Town employee is not eligible for the opt-out payment where the employee opts out of their individual health plan and becomes a dependent on their spouse's plan, when their spouse is also a subscriber on the Town's plan.

To be eligible, an employee must have been a subscriber to the Town's health plan in the immediate twelve (12) month period of the fiscal year prior to agreeing to opt out of the Town's health plan.

Retirees on the Town's health plan are not eligible for this Opt-Out Program.

If an employee is eligible and elects to opt out of the Town's health insurance plan, the Town is not responsible for medical coverage effective on July 1, 2015 (except for medical coverage for injuries and illnesses covered by G.L. c. 41, Sec. 111F or G.L. c. 152) and for each fiscal year thereafter that the employee voluntarily agrees to waive health insurance coverage through the Town.

An employee is only eligible to re-enroll in the Town's health insurance plan during the Annual Open Enrollment Period or due to a loss of coverage from the source other than the Town, i.e. a qualifying event under COBRA, such as:

1. the death of a covered employee;
2. the termination (other than by reason of the employee's gross misconduct), or reduction of hours, of a covered employee's employment;
3. the divorce or legal separation of a covered employee from the employee's spouse;
4. a covered employee becoming entitled to Medicare benefits under Title XVIII of the Social Security Act; or
5. a dependent child ceasing to be a dependent child of the covered employee under the generally applicable requirements of the plan and a loss of coverage occurs.

To re-enroll, the employee must complete the required paperwork during the Open Enrollment Period or, for a loss of coverage, notify the Town Manager's Office and complete the re-enrollment process within thirty (30) days of the date of loss of coverage.

If an employee does re-enroll in the Town's group health insurance or the employee's employment with the Town ends (termination, resignation, retirement, reduction of hours, layoff, or death) during the fiscal year, the employee will only be eligible for a pro-rated payment.

Each employee agreeing to opt out of the Town's health insurance plan must acknowledge that they have read and agree to comply with the terms and conditions of the Town's Opt-Out Program on the attached Acknowledgement Form, a copy of which will be placed in the employee's personnel file.^{lvii}

Employees in part time positions who work at least 20 hours regularly per week, each week of the year, are also eligible for the Town's group Medical Plan.^{lviii}

~~D. Life Insurance~~

~~Term Life Insurance in the amount of \$20,000.00^(lviii,lix) is included as part of the Town's Medical Plan~~

~~E. AD&D Insurance^{lx}~~

~~Regular full time and part time employees may choose to enroll in a voluntary AD&D plan. This plan is an option to all non-union town employees working regular part-time and regular full-time hours. This is a voluntary plan administered by the Town. Monthly premium costs are paid for by the participating employees.~~

~~F. Short-Term Disability Policy^{lxi}~~

~~All regular full-time and regular part-time employees working 20 hours per week or more will be enrolled in a short-term disability plan. This is a mandatory plan administered by the Town, thus monthly premium costs are paid for by the Town. Employees who are sick or disabled must utilize their existing sick time for the first 15 calendar days of their illness/disability, after which they will be transferred to the Town's STD plan.~~

~~G. Dental Insurance^{lxii}~~

~~Regular full-time and part-time employees may choose to enroll in a voluntary dental plan. This plan is an option to all non-union town employees working regular part-time and regular full-time hours. This is a voluntary plan administered by the Town. Monthly premium costs are paid for by the participating employees.~~

~~H. Holidays the following eleven days shall be paid holidays.^(lxiii, lxiv)~~

~~All full-time employees and regular part-time employees working 20 hours per week or more are entitled to the following eleven paid holidays:~~

New Year's Day	Martin Luther King Day	President's Day
Patriot's Day	Memorial Day	Fourth of July
Labor Day	Columbus Day	Veteran's Day
Thanksgiving Day	Christmas Day	

~~The Town of Upton shall follow the State of Massachusetts' holiday calendar. If an employee is required to work on a holiday or their regular work schedule causes them to miss a holiday, his or her supervisor will allow equivalent time off at a mutually convenient time. No other days shall be taken, other than as vacation days.~~

~~I. Leaves^{bxi}~~

~~1. Jury Duty~~

~~The Town will pay the difference between Jury Duty and the employee's regular pay~~

~~2. Bereavement Leave^{bxi}~~

~~The Town will, with approval of the Department Manager, grant up to three days leave with pay in the event of death in the immediate family.~~

~~3. Military Leave~~

~~Employees in the service of the armed forces of the Commonwealth or a reserve component of the armed forces of the United States shall be granted a leave of absence consistent with the provisions of G.L. c.59, §33; provided that said employee shall provide notice to the Town Manager and Board of Selectmen as far in advance as is reasonable under the circumstances, and not less than thirty (30) days prior to departure for uniformed service when feasible.⁷⁹~~

~~4. Family Medical Leave^{bvii, bviii}~~

~~Eligible employees may take up to a maximum of 12 weeks job protected leave each year for one or more of the following reasons:~~

- ~~(1) — for the birth or placement of a child for adoption or foster care;~~
- ~~(2) — to care for an immediate family member (spouse, child, parent) with a serious health condition; or~~
- ~~(3) — to take medical leave when the employee is unable to work because of a serious health condition;~~
- ~~(4) — for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation; or~~
- ~~(5) — to care for a covered service member.~~

~~An eligible employee who is a family member of a seriously injured or ill military service member, is entitled to up to twenty six weeks (26) of leave to care for said service member while he/she undergoes medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness.~~

~~An employee's right to take up to twelve (12) weeks of leave in a 12-month period shall be calculated as the 12-month period measured forward from the date of an employee's first FMLA leave usage. This leave is first drawn and paid for by an employee's accrued sick leave. If an employee does not have enough accrued sick leave to cover the leave period, the employee then may utilize any accrued vacation leave, the rest of the 12-week maximum period taken will be unpaid under these provisions. Once on unpaid family/medical leave, the Town of Upton will continue coverage for medical benefits, however, the employee~~

will be required to pay their normal portion of the premium. Accruals of vacation and sick time will continue for the first thirty (30) days of a family medical leave. This leave policy complies with state regulations and the Family Medical Leave Act.

~~5. Personal Leave of Absence~~^{bxi*}

~~An employee may, with the recommendation of the Department Head and specific approval of the Hiring Authority, be granted up to two days of personal leave without pay to meet a serious personal obligation that cannot be met other than during working hours.~~

~~6.~~^{bxi*}

~~7. Selectmen's Emergency Leave~~

~~The Selectmen may, at their discretion, grant an emergency thirty-day leave during which time medical benefits will continue to be paid by the Town. At the discretion of the Board of Selectmen this leave may be with or without pay.~~

~~J. Consolidated Omnibus Budget Reconciliation Act (COBRA)~~^{bxi, bxi*}

~~In accordance with the Consolidated Omnibus Budget Reconciliation Act (COBRA), a federal statute, employees and/or dependents who lose eligibility from the Town of Upton's sponsored group medical insurance may continue coverage for a specified length of time depending upon the qualifying event; termination of employment or reduction of work hours — 18 months; disability — 29 months; death, divorce or legal separation of employee — 36 months; dependent of employee entitled to Medicare — 36 months; dependent child's loss of eligibility — 36 months. Covered individuals will be responsible for 100% of the cost of the insurance. For more details, please contact the Personnel Coordinator.~~

~~K. Worker's Compensation~~^{bxi, bxi*}

~~The Town will provide employees with worker's compensation.~~

~~X. Compensation of Elected Officials~~^{bxi*}

~~The members of elected multiple member bodies shall be eligible, subject to appropriation, to receive an annual stipend for their services in accordance with the provisions of this section, provided, however, that they are in compliance with Sections One and Two of Chapter Two of the Upton General Bylaws. The chairman of an elected multiple member body shall be eligible to receive an annual stipend of no more than seven hundred fifty dollars (\$750.00) and all other members shall be eligible to receive no more than five hundred dollars (\$500.00), with such stipends to be paid each year in the last pay period prior to the date of the annual town election. This section shall not apply to members of the Finance Committee, who shall be ineligible for such stipends or other compensation for services, or the Town's Constables, who shall be compensated in the manner, and amount, appropriated for such purposes. Payment of stipends hereunder shall not render any member of an elected multiple member body an "employee" for purposes of the Town's Personnel Bylaws or otherwise, except as otherwise provided by law.~~

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- i Revised — May 2010
 - ii Revised — May 2010
 - iii Revised — March 2010 for new governmental structure
 - iv Revised — May 2004
 - v Added — May 2001
 - vi Added — May 2010
 - vii Typographical & Grammatical Corrections — May 1997
 - viii Deleted and Replaced — May 1998
 - ix Deleted and Replaced — May 1997
 - x Deleted and Replaced — May 2000
 - xi Deleted and Replaced — May 1997
 - xii Revised — May 2010
 - xiii Revised — May 2000
 - xiv Revised — November 2012
 - xv Added — May 2007
 - xvi Revised — November 2012
 - xvii Revised — November 2012
 - xviii Revised — May 2006
 - xix Revised — November 2012
 - xx Revised — November 2012
 - xxi Revised — May 2010
 - xxii Typographical & Grammatical Corrections — May 1997
 - xxiii Added last two sentences — May 2014

 - xxiv Deleted and Replaced — May 2001
 - xxv Revised — November 2012
 - xxvi Typographical & Grammatical Corrections — May 1997
 - xxvii Typographical & Grammatical Corrections — May 1997
 - xxviii Typographical & Grammatical Corrections — May 1997
 - xxix Added — May 2001
 - xxx Deleted and Replaced — May 1997
 - xxxi Revised — May 2000
 - xxxii Typographical & Grammatical Corrections — May 1997
 - xxxiii Deleted and Replaced — May 2011
 - xxxiv Deleted and Replaced — May 1997
 - xxxv Revised — May 2010
 - xxxvi Revised — May 2010
 - xxxvii Amended extensively — May 2014
 - xxxviii Added — May 2015
 - xxxix Renumbered — May 2015
 - xl Added — May 2012
 - xli Deleted and Replaced — May 2001
 - xlii Revised — May 2014
 - xliiii Typographical & Grammatical Corrections — May 1997
 - xliiv Deleted and Replaced — May 1997
 - xlv Deleted and Replaced — May 2005
 - xlvi Revised — May 2008
 - xlvii Added — May 2012
 - xlviii Revised — November 2012
 - xlix Added — May 2000
 - l Amended — May 2012
 - li Deleted and Replaced — May 2005
 - lii Amended — May 2012
 - liii Revised — November 2012
 - liiv Added — May 2000
 - liv Revised — May 2007
 - lvii Added — May 2015
 - lviii Added — May 2001
 - lviii Revised — October 2002
 - lix Updated — May 2010
 - lxi Added — May 2010
 - lxii Added — May 2012
 - lxiii Added — May 2010
 - lxiii Renumbered — May 2010
 - lxiv Revised — May 2006
 - lxv Renumbered — May 2010

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- ^{lxvi} Revised — May 2006
 - ^{lxvii} Deleted and Replaced — May 1997
 - ^{lxviii} Deleted and Replaced — May 2011
 - ^{lxix} Deleted and Replaced — May 1997
 - ^{lxx} Deleted — May 1997
 - ^{lxxi} Deleted and Replaced — May 1997
 - ^{lxxii} Renumbered — May 2010
 - ^{lxxiii} Title Changed — May 1998
 - ^{lxxiv} Renumbered — May 2010
 - ^{lxxv} Added — May 2014
 - ⁷⁶ Revised Longevity — May 2018
 - ⁷⁷ Revised Pre-Employment Medical Examination — May 2018
 - ⁷⁷ Deleted Meritorious Bonus — May 2018
 - ⁷⁹ Revised Military Leave — May 2018

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