

# Personnel Policies & Procedures

TOWN OF MIDDLETON

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*\*\* The policies and procedures outlined herein are subject to change without notice provided that the changes are made in accordance with federal and state laws and Town Bylaws. The Town of Middleton, Massachusetts reserves the right to lay off any employee whenever such action becomes necessary by reason of shortage of funds, lack of work, the abolition of a position, a material change in duties or organization, or for any other appropriate reasons. These policies are a guide only, and it is not the intent of the Town to grant any employee any contractual commitment expressed or implied by its adoption.*

## Welcome to Middleton

Dear Town of Middleton Employee,

Whether this is your first day or you are a long-time employee, we are happy to have you here. We hope you find the Town of Middleton an engaging, professional, and welcoming place to work.

The Town of Middleton values the talents and abilities of our employees and seeks to foster an open, cooperative, and dynamic environment in which employees and the Town as a whole can thrive. We encourage you talk with your Department Head regarding any questions or issues as they arise. The administration is always available for your input as well as resolution of issues.

This handbook is a compilation of the policies, procedures, benefits, and working conditions that will be followed by all employees of the Town. Policies are adopted by the Board of Selectmen and are subject to change.

If you belong to a Union, the provisions of your collective bargaining contract may govern if they are different than the provisions of this handbook.

We will notify employees when an official change in policy or procedure has been made. Employees are responsible for their own up-to-date knowledge about Town policies, procedures, benefits, and working conditions.

The Town of Middleton is an equal opportunity employer as is outlined in this handbook. We welcome and value diversity. We also provide for fair treatment of employees based on merit and comply with all applicable Federal, state, and local labor laws.

Please review the policies, procedures, working conditions, and benefits described in this handbook, then sign and date the last page and return to the Assistant Town Administrator.

We are happy to have you on the team.

Sincerely,

Town Administrator  
Andrew Sheehan

Assistant Town Administrator/  
HR Director  
Tanya Shallop

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## **Section 1: Title and Purpose**

The purpose of these personnel policies and procedures is to establish a system of personnel administration governing employment within the Town of Middleton which is consistent with Massachusetts General Law, Chapter 151B; also, to ensure that the recruitment, selection, and advancement of personnel shall be based on ability, knowledge, skill and performance under fair and open processes. The personnel system shall be administered without regard to race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law, and with proper regard for privacy and employee rights.

These Policies and Procedures are adopted pursuant to the authority granted under the Middleton Town Charter and By-Laws, by Article LXXXIX of the Constitution of the Commonwealth and General Laws, Chapter 41, Section 108A and 108C.

## **Section 2: Scope of Policies**

These policies shall apply to all employees of the Town of Middleton except:

- Those appointed or employed by the School Committee
- Those appointed or employed by the Middleton Electric Light Department
- Those who serve in offices filled by popular election and persons appointed to fill vacancies in elective offices
- Those who serve on voluntary boards, commissions, committees or authorities
- Others exempted by the Board of Selectmen

Employees whose employment is governed by a collective bargaining agreement are subject only to those provisions of this Policy not specifically regulated by the agreement. Contractors or tenants with offices in a Town facility and/or accept the use of Town resources are required to comply with any and all relevant provisions of this document, particularly access provisions (i.e. Information Technology).

Additionally, Police and Fire Department policies, procedures, guidelines and general orders supersede any like policy or procedure in this manual. Changes to Police and Fire internal policies and procedures will be reviewed annually with the Town to ensure compliance with Town policies.

Since the nature of municipal government is subject to constant change, the Town reserves the right to change any of its policies at any time, including those covered in this Handbook. The Town will notify you of changes in advance whenever possible. Changes will be effective on dates determined by the Town and you may not rely on policies that have been superseded.

If you are uncertain about any policy or procedure, please check with your supervisor or the Assistant Town Administrator/HR Director.

### **Section 3: Administration**

The Town Administrator, under the policy direction of the Board of Selectmen, shall be responsible for the proper administration of these policies.

Specifically:

- The Town Administrator shall be vested with all the powers and duties specified in the Town Charter and Personnel Bylaw.
- The Town Administrator shall establish such procedures as he or she deems necessary for the proper administration thereof and assigns to the Assistant Town Administrator/HR Director such duties as he or she deems necessary.

### **Section 4: Definitions**

As used in these policies the following words and phrases shall have the following meaning unless a different meaning is clearly required by the laws of the Commonwealth:

Appointing Authority - The Board of Selectmen, department head or any board, commission, committee or manager so empowered by statute, bylaws, charter or directive, that has the power to appoint an employee to any non-elective position is referred to as the Appointing Authority.

Collective Bargaining Agreement - The document resulting from the mutual obligation of employers and employees' representatives to meet at reasonable times and confer in good faith with respect to wages, hours, standards of productivity and performance, and other terms and conditions of employment. This includes the mutual obligation to negotiate an agreement and bargain over questions arising under an agreement.

Continuous Employment - Employment uninterrupted except for required military service and for authorized vacation, sick leave, bereavement leave, court leave, domestic violence leave or other approved leave of absence.

Department - Any department or agency of the Town subject to these policies.

Department Head - The officer or other body having immediate supervision and control of a department; in the instance of a department serving under the supervision and control of the Town Administrator, the officer, board or other body responsible to the Board of Selectmen for the administration of the department.



Exempt Employee - A salaried employee who is employed in an executive, administrative, or professional capacity and is not generally entitled to overtime pay as he or she meets the following criteria as defined by the Fair Labor Standards Act., 29 USC Sections 201-216:

- 1.) Executive — primary duty is to manage a department
- 2.) Administrative — primary duty is office or non-manual work directly related to management policies, or directly assisting an executive.
- 3.) Professional — primary duty requires advance knowledge acquired by specialized study, work is intellectual and the result is not standardized.

Employee - as used in the Personnel Policies shall be any person paid and employed by the Town whether full-time, part-time, seasonal, special, regular, probationary or temporary.

Full-time Employee - A full-time employee is one who has completed the probationary period and who is scheduled to work an average of at least 37.5 hours per week throughout the year. Hours worked as an elected official may not be combined with hours worked in an appointed capacity in determining an employee's status.

Grievance - A complaint or dispute between an employee and his/her supervisor.

Manual Laborer - A non-office worker position that requires regular lifting, carrying of objects, cleaning or other physically strenuous labor.

Non-Exempt Employee - An employee, whether paid a salary or hourly wage, whose primary duty is not executive, administrative, or professional in nature. A non-exempt employee is entitled to overtime pay under certain conditions.

Overtime - For non-exempt employees, time worked in excess of the normal work week of 40 hours, or as otherwise calculated under a collective bargaining agreement or employment contract, subject to certain conditions.

Part-time Employee, benefits eligible - A part-time employee is eligible to receive certain benefits depending on their schedule and average weekly hours. An employee who regularly is scheduled to work 20 or more hours per week but fewer than 37.5 hours per week throughout the year (with the exception of school employees) is eligible for health insurance and life insurance benefits. Hours worked as an elected and/or appointed official may not be combined with hours worked in an appointed capacity in determining an employee's status.

Part-time Employee, not benefits eligible - A part-time employee working on average, fewer than 20 hours per week, annually, is not eligible for health insurance or life insurance benefits. Hours worked as an elected and/or appointed official may not be combined with hours worked in an appointed capacity in determining an employee's status.

Probationary Period - A working test period during which time an employee is required to demonstrate ability to meet acceptable standards of performance prior to an appointment to a classified position; generally 6 months unless otherwise specified by law.

Public Safety Position - Any position included in the Fire Department, Police Department; any ambulance attendant, Emergency Medical Technician, or other similar position, not including administrative or housekeeping staff of said departments.

Regular Employee - A regular employee is one who has completed his/her probationary period and is retained in a position where the intent is more than six months continuous employment.

Temporary Employee - A temporary employee is a full- or part-time position that is not likely to require the services of an employee on a year-round basis. Seasonal employees and employees hired for a specific project on a short-term basis are considered temporary employees. Temporary employees are not eligible for any benefits offered by the Town. Temporary employees, after a six month period of continuous employment with the town, may be considered for permanent employment. Grant funded employees shall also be considered temporary employees.

## **Section 5: Employment Practices**

It is the policy of Middleton to select and hire the best qualified candidate for the position with special attention being paid to recruiting from existing Town government employees and volunteers as well as adherence to collective bargaining agreements.

### **A. Equal Employment Opportunity, Discrimination and Sexual Harassment**

It is the Policy of the Town of Middleton to promote a professional and productive workplace in which all employees are treated with dignity and respect. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. Discrimination (including harassment), whether based upon race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, maternity leave, genetic information, active military status, or another basis prohibited under state or federal anti-discrimination statutes, will not be tolerated. See Appendix B for our full policy.

### **B. Equal Pay Act - An Act to Establish Pay Equity**

Effective July 1, 2018, Chapter 177 of the Acts of 2016, *An Act to Establish Pay Equity*, amends the Massachusetts Equal Pay Act (MEPA), M.G.L. c. 149, § 105A to generally provide that “*No employer shall discriminate in any way on the basis of gender in the payment of wages, or pay any person in its employ a salary or wage rate less than the rates paid to its employees of a different gender for comparable work.*” The law defines “comparable work” as work that requires substantially similar skill, effort, and responsibility, and is performed under similar working conditions.

MEPA permits differences in pay for comparable work only when based upon:

- 1.) a system that rewards seniority with the employer (provided, however, that time spent on leave due to a pregnancy-related condition and protected parental, family and medical leave, shall not reduce seniority);
- 2.) a merit system;
- 3.) a system which measures earnings by quantity or quality of production, sales, or revenue;
- 4.) the geographic location in which a job is performed;
- 5.) education, training or experience to the extent such factors are reasonably related to the particular job in question; or
- 6.) travel, if the travel is a regular and necessary condition of the particular job.

Importantly, MEPA makes clear that employees' salary histories are not a defense to liability. Moreover, an intent to discriminate based on gender is not required to establish liability under the law.

### **C. Recruitment and Job Postings**

The appointing authority shall make known all approved vacancies for positions by posting announcements of such vacancies with the Town Clerk and any other official Town locations. When it is necessary to recruit from outside the Town government, the appointing authority shall advertise online or in publications to the extent necessary to ensure sufficient numbers of qualified candidates.

Individuals to fill positions shall be recruited from a geographic area as wide as is necessary to ensure obtaining well qualified candidates for the various types of positions.

### **D. Selection Procedures**

Selection and appointment to all Town positions shall be based solely upon job-related requirements and the applicant's demonstration of the skills, knowledge, abilities and other characteristics necessary for successful job performance and career development, as outlined in the job description. The appointing authority may determine that a test or a combination of tests will be used to evaluate the relative fitness of each candidate for the position. The tests shall relate to the duties and responsibilities of the position for which candidates are being examined, and shall fairly appraise and determine the merit, fitness, ability and qualifications of competitors to perform the duties of the position. In addition, a variety of personnel procedures may be employed, including reference checks; personal interviews; assessment of training, education and work experience; medical examinations; written, oral and performance tests.

## **E. Nepotism**

When in the normal selection process, relatives of Town employees or officials are being considered for appointment or promotion, the Town Administrator will be notified by the Department Head. No person shall be hired or promoted based upon their family relationship to another Town employee or official. No employee shall be in a position that provides supervision over his/her relative. Any employee or official with appointing authority shall delegate such authority if a relative is under consideration for appointment even if the appointing authority will not be a direct supervisor of the candidate.

This policy is not for the purpose of depriving any person of an equal opportunity for employment with the Town, but is solely intended to eliminate the perception of or potential for preferential treatment of the relatives of government personnel.

The Town may modify schedules, shifts, squads or work units to eliminate any potential for conflict under this policy.

Relatives, for the purpose of this policy, shall include all members of the immediate family including spouse, parents, brothers, sisters, direct line aunts and uncles, nieces and nephews, children, grandparents, grandchildren and in-laws. Cousins and aunts, uncles, nephews and nieces by marriage are not regarded as members of the immediate family for purposes of this policy.

## **F. Reasons for Rejection**

The appointing authority may reject any application where there is an indication that the applicant does not possess the minimum qualifications required for the position or which was not filed by the announced closing date for receiving applications. Further, an application may be rejected if the applicant makes any false statements of any material fact therein, or practices any deception or fraud regarding any event which may be pertinent to the application process or the applicant's background, fitness or qualifications. Written notice of rejection shall be given to the applicant by the appointing authority.

## **G. References**

The appointing authority will contact references as necessary and with the prior approval of the candidate. The candidate shall execute a release permitting the same, which release shall hold the Town harmless from acting upon any information provided to it. All reference checks shall be considered personal and confidential in an effort to protect the candidate's present employment status.

## **H. CORI Check**

The Town of Middleton recognizes the need to ensure a safe environment for those we serve. As one means of providing a safe and credible environment, the Town has implemented a Criminal Offender Record Information (CORI) Policy. An applicant for a

Town position will be required to undergo a CORI check after a conditional offer of employment, volunteer assignment or other municipal relationship has been made. A copy of the full policy can be found as Appendix D.

## **I. Medical Exam**

Certain offers of employment are contingent upon the successful completion of a pre-employment medical and/or psychological examination performed by a physician of the Town's choice at its expense. All candidates to which a conditional offer has been made will be required to furnish the Town (on a form provided by the Town) a signed authorization form allowing the Town to have access to the prospective employee's medical exam reports. After appointment to town service, the appointing authority may require a medical examination if the Town of Middleton believes that an employee is not able to perform a job successfully or safely because of a medical condition, or to support an employee's request for a reasonable accommodation. When required, such examination shall be performed by a practicing physician appointed or approved by the Town and at the expense of the Town.

## **J. Appointments**

All offers of employment shall be made in writing by the appointing authority and shall include the salary, the starting date and other appropriate information. An applicant who accepts an appointment and fails to report to work on the starting date set by the appointing authority, except for good cause, shall be deemed to have declined the appointment and the offer of employment shall be withdrawn.

## **K. Immigration**

All employees will be asked to provide documentation that indicates their United States citizenship or, if not citizens, that they are legally authorized to work in the United States. All new employees must complete the Employment Verification Form I-9, Section 1,

Employee Information and Verification. Immigration status may be verified as follows:

- U.S. passport, social security card, birth certificate, driver's license
- Certificate of U.S. citizenship
- Certificate of naturalization
  - Unexpired foreign passport with valid, unexpired endorsement authorizing U.S. employment
  - Resident alien card or other alien registration card authorizing U.S. employment containing a photograph or other authorized personal identifying information.

The law requires that both the employer and employee sign forms attesting to examination of documents and employment authorization.

## **L. Orientation**

The purpose of the orientation period is to ensure that new and promoted employees are aware of and understand their duties, responsibilities and required work standards and to help employees achieve an effective level of performance. Following the initial orientation, it is the ongoing responsibility of department heads to assist employees in understanding these duties, responsibilities and standards of performance. This covers all employees.

No later than the first day a new employee is scheduled to work, the employee shall report to the Treasurer/Collector Department and Assistant Town Administrator/HR Director for the purpose of completing all necessary employment paperwork. This provides an opportunity to review documents, ask and answer questions, and ensure each is done in a timely manner to facilitate an accurate payroll process.

Following the initial orientation session, department heads shall provide on-site training and orientation regarding specific rules, regulations, policies, and procedures of the employee's assigned department, including all safety policies and procedures.

## **M. Probationary Period**

Unless otherwise stipulated, all employees begin employment with a six month probationary period. Employees who leave the service of the Town at the end of this six month period shall not be entitled to any vacation earned. During probation, an employee is entitled to pay for holidays and other benefits provided to eligible employees. Employees will be awarded their pro-rated annual vacation allowance at the end of the six month period at which point the employee may use his or her vacation. Any vacation time that an employee has pre-scheduled shall be negotiated before hiring.

An employee may be terminated for any lawful reason during the probationary period.

Upon expiration of the probationary period the appointing authority shall notify the probationary employee that:

- 1.) The employee's performance meets satisfactory standards and that the individual will be retained in the position as a regular employee; or
- 2.) The employee's performance, due to extenuating circumstances, requires additional observation and that the probationary period will be extended an additional period of time not to exceed six months. An extension of the probationary period must include a written Employee Improvement Plan indicating the performance expectations to be met, a timeframe, and that failure to meet these expectations may result in employment termination; or
- 3.) They are terminated for any lawful reason.

## **N. Seperation from Service**

Employment with the Town has no specified term or length. Employees are free to resign at any time, and the Town reserves the right to terminate employment for any reason permissible by law. All employees, except contract employees, are considered employees at will. All separations of employees shall be designated as one of the following types and accomplished in accordance with the manner indicated:

- Resignation
- Abandonment
- Layoff
- Disability
- Non-Renewal of Appointment
- Death
- Retirement
- Dismissal

At the time of separation and prior to final payment, all records, assets, or other items of Town property in the employee's custody shall be transferred to the appropriate department. In the event of a shortage in the above, an amount representing the value of unreturned property shall be calculated and withheld from the employee's final compensation or collected through other appropriate action. Employees who separate from the Town service in good standing shall receive payment for all earned salary and accumulated vacation leave, subject to appropriate deductions and any indebtedness in accordance with the Massachusetts Wage Act.

**Resignation** – An employee may resign from the Town in good standing by submitting in writing the reasons and the effective date to the department head or appointing authority at least 14 calendar days in advance. The department head or appointing authority may permit a shorter period of notice because of extenuating circumstances. If the employee is in a supervisory capacity, the Town requires a one month written notice.

**Abandonment** – Any employee who has not reported for scheduled work hours for a period of three days without contacting his or her supervisor will have been deemed to have abandoned his or her position, except for good cause.

**Lay-off** - A position may be discontinued or abolished because of a change in duties, reorganization, lack of work or lack of funds. The appointing authority shall determine the order of lay-off of employees on the basis of seniority and / or position. Employees subject to lay-off shall be notified at least one week in advance, except in cases of emergency over which the Town has no control. Employees laid off from work may be eligible for state unemployment compensation.



**Disability** - An employee may be separated for a non-job disability when that employee, with reasonable accommodations, cannot adequately perform the full duties of the position because of physical or mental impairment. Such separations may be initiated by the employee, the Town or an authorized legal representative of either but in all cases the disability must be supported by medical evidence acceptable to the appointing authority. The Town may require an examination at the Town's expense performed by a physician of the Town's choosing. Job related injuries are subject to Workers' Compensation laws or Injured on Duty laws.

**Non-Renewal of Appointment** - Non-Renewal of Appointment occurs when the Board of Selectmen or other appointing authority determines not to renew the appointment to the position.

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

**Retirement** - The Essex Regional Retirement System is available to employees scheduled to work 20 hours per week or more throughout the year. Information about retirement is available from the Treasurer/Collector's Office or the Essex Regional Retirement System 978-739-9151. Part-time, seasonal or temporary employees of the Town, not eligible to participate in the Essex Regional Retirement System or covered under a section 218 agreement, may be required to participate in the Massachusetts Deferred Compensation SMART, or another alternative to Social Security as permitted by the federal Omnibus Budget Reconciliation Act of 1990 (OBRA), or may be subject to social security deductions. See OBRA section below.

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

**Exit Interview** - Each separating regular full-time and part-time employee may be interviewed in an exit interview as near as possible to the close of the last day of work. The objectives of the exit interview to be conducted by the department head, appointing authority or HR Director are:

- To identify problems and determine any trends which are developing in a particular department.
- To establish a clear understanding of the reasons for the termination as seen by the employee and the employer.
- To obtain information that will improve the screening of job applicants.
- To determine the impact on employees of Town personnel policies and practices.



- To ensure that the employee has returned all Town property and has no outstanding obligations.

Most exit interviews are of a rather routine nature. However, occasionally an interview involves information of a confidential nature. Such information shall be kept confidential, except as necessary to protect the interests of the Town. A record shall be made of each interview and a report of the exit interview shall be maintained in the employee's personnel file. Subject matter to be covered shall include: job responsibility, quality of supervision, employee relations policies, working conditions and town operation and organization, etc.

Unemployment Compensation - The town must pay the cost established by the Commonwealth of Massachusetts to provide unemployment compensation for its employees.

## **O. Disciplinary Policy**

All employees are responsible for observing regulations necessary for proper operation of town departments. Disciplinary action shall be the responsibility of supervisors, department heads and appointing authorities, who shall exercise their responsibility with discretion and with concern for the employee and co-workers. The following is intended to serve as a guideline in the determination as to when disciplinary action is appropriate and what form it should take. The Town will consider all relevant factors including the circumstances of the particular infraction; the seriousness of the incident; the employee's overall employment record; and the detriment or risk to the town, its employees, residents or visitors as a result of the infraction. This disciplinary policy does not constitute a contract or grant contractual rights to any employee. Disciplinary action may be imposed upon an employee for conduct or actions which interfere with or prevent the Town from effectively and efficiently discharging its responsibilities to the public.

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

- Incompetence, inefficiency or negligence in performance of assigned duties
- Inability or refusal to perform one or more critical elements of the position
- Abuse of sick leave or absence without leave
- Violation of safety rules, practices and policies
- Refusal to perform a reasonable amount of work, violation of any reasonable official order or failure to carry out any lawful and reasonable directions made by a supervisor
- Habitual tardiness or absence from duty
- Falsification of time sheets

- Use or possession of illegal narcotics or alcohol while on duty (See Policy for a Drug & Alcohol Free Workplace)
- Theft, misuse, negligence, destruction or unauthorized use of town property or conversion of Town property for personal use or gain
- Fraud, falsification of information, omission of material information in securing appointment
- Disclosure of confidential information
- Conviction of a felony
- Engaging in harassment or sexual harassment
- Activities prohibited by Town bylaws, rules and regulations, policies, charter or state law
- Insubordination
- The use of abusive language toward a superior, another employee or the public
- Acceptance of any valuable consideration which was given with the expectation of influencing the employee in the performance of employment duties
- Falsification of records or use of official position for personal advantage
- Any other situation or instance of seriousness that disciplinary action is warranted.

Disciplinary action may include a verbal reprimand, written reprimand, disciplinary probation, adherence to a corrective action plan, suspensions and/or discharge. Suspensions may be in lieu of verbal reprimand, written reprimand and disciplinary probation and suspension may be effective immediately.

*Verbal reprimand:* A Department supervisor, or appointing authority, if no supervisor exists, upon observing conduct warranting discipline, may issue a verbal warning to the employee. The verbal warning shall be presented in a manner which limits embarrassment to the employee and shall include a statement concerning the purpose of the warning. A verbal reprimand may be noted in the employee's personnel file by written memorandum.

*Written reprimand:* If a verbal warning fails to correct conduct warranting disciplinary action, or the conduct warrants more serious discipline, the Department supervisor or the appointing authority, may issue a written warning. This shall include the reason(s) for the warning and an offer of assistance from the Department Head or from the appointing authority in correcting the problem.

A copy of the written warning signed by the Department Head or the appointing authority and the employee shall be placed in the employee's personnel file and the warning shall set forth a specified period in which the behavior shall be corrected. The employee may submit a written response to the reprimand to be placed in his/her file. If the employee refuses to sign the written warning, the department supervisor or appointing authority shall so note on the warning.

**Disciplinary Probation:** If a written warning fails to correct conduct warranting disciplinary action, or the conduct warrants more serious discipline, the Department supervisor or the appointing authority, may place an employee on disciplinary probation for a period of up to three months. The employee shall receive a written notice stating the reason(s) for the disciplinary probation, the requirements for satisfactorily completing the disciplinary probation, and the effective starting and ending dates of such probation. At the expiration of the disciplinary probation period, the appointing authority shall notify the employee in writing that the probation has been removed or that further disciplinary action will be taken.

**Paid Administrative Leave:** At the discretion of a Department Head or the appointing authority an employee may be placed on Paid Administrative Leave, a temporary leave from a job assignment, with pay and benefits intact to conduct an internal review or investigation. Paid Administrative Leave shall not be deemed discipline.

**Suspension:** At the discretion of a Department Head or the appointing authority an employee may be suspended with cause without pay. Within forty-eight working hours of the effective date of the suspension, the employee shall be provided with a written notice stating the reasons for and the length of suspension.

**Discharge:** An employee may be discharged for cause following progressive discipline principals or the conduct warrants the most serious discipline. The Department Head shall provide the employee with a written notice stating the reason(s) for the discharge and the effective date of discharge.

## **P. Grievance Procedure**

A grievance is a dispute between an employee and the appointing or supervisory authority arising out of an exercise of management rights or administrative discretion, interpretation of this Policy or other similar dispute.

The first and second steps in this grievance procedure are informal efforts to resolve problems when they arise by the parties directly involved. The fourth step provides a means of further appeal to the Appointing Authority. The employee may be accompanied by and represented by a legal representative at the third and fourth steps of this procedure.

The employee will follow the steps in the order as described; however, the employee may contact the Town Administrator directly, if the circumstances warrant and the employee is uncomfortable discussing the problem with the Department Head or Supervisor. Also, the Town Administrator or Assistant Town Administrator may be contacted at any time for additional information, guidance, or assistance in interpreting any part of this grievance procedure.

**Step 1:** Within 7 calendar days of the incident or the action causing the problem, the complaint will be discussed with the immediate Supervisor, who in some cases will be the Department Head. The Supervisor will provide the grievant with a response, in writing,

summarizing the grievance and remedy, if any, within 7 calendar days of the meeting. If the immediate Supervisor is the Department Head, the grievant will bypass Step 2 and immediately proceed to Step 3.

Step 2: If the Supervisor's reply does not resolve the grievance to the employee's satisfaction, the employee may submit a written complaint to the Department Head within 7 calendar days from the date of the Supervisor's written response, summarizing the complaint and response. The Department Head will discuss the grievance with the employee and supervisor separately, make any further investigation as may be necessary and provide the employee with a written response within 7 calendar days following receipt of the employee's Step 2 complaint.

Step 3: If the Department Head's response does not resolve the grievance to the employee's satisfaction, the employee may request that the complaint be reviewed by the Town Administrator. The aggrieved employee shall submit a written grievance to the Town Administrator or designee within five (5) calendar days following receipt of the Department Head's written response. The grievance shall be signed and dated by the aggrieved employee and shall specify the following:

- 1.) All pertinent facts.
- 2.) The pertinent section(s) of this policy.
- 3.) A summary of the cause of the grievance.
- 4.) Date of delivery of grievance to the Town Administrator or designee.
- 5.) Requested remedy or relief.

Within seven (7) calendar days after the filing, the Town Administrator or designee shall investigate the grievance, separately meeting with the aggrieved employee, the department head and witnesses to the subject matter. Within seven (7) calendar days after conclusion of the investigation, the Town Administrator or designee shall provide the employee with a written decision.

If one of the parties in the grievance is the Board of Selectmen, then the decision of the Town Administrator or designee shall be final and binding on all parties.

Step 4: If the Appointing Authority is a party other than the Town Administrator and the Town Administrator's or designee's response does not resolve the grievance to the employee's satisfaction, the employee may request that the complaint be reviewed by the Appointing Authority. The request to the Appointing Authority will be submitted in writing within 7 days of the receipt of the response of the Town Administrator or designee and shall follow the same procedure outlined in Step 3 regarding the contents of the written request.

If the Appointing Authority determines that a hearing is not warranted, it will notify the grievant in writing of its decision to abide by the decision of the Town Administrator. If the Appointing Authority determines that a hearing is warranted, such hearing will be

scheduled by and before the Appointing Authority. During that hearing, the Appointing Authority will review the entire case, may seek additional relevant information and may interview any of the parties involved. The grievant or his/her representative will have the right to present information (both in writing and through witnesses) and to question others who have provided information.

After the hearing, the Appointing Authority will issue written findings and recommendations within a reasonable time with copies to all parties concerned. The decision of the Appointing Authority shall be final and binding on all parties.

## **Section 6: Conduct and Working Conditions**

### **A. Purpose**

It is the policy of the Town of Middleton to commit to the principles of Equal Employment Opportunity in all of its policies, practices, programs and activities. This policy includes but is not limited to areas of recruitment, selection, promotion, termination, transfer, layoff, compensation, benefits, reasonable accommodation and other terms and conditions of employment that may apply. It is the intent of the Town of Middleton to comply with all applicable federal and state Laws that have been enacted for the purpose of eliminating discrimination.

The Town prohibits discrimination in its employment practices on the basis of to race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law. Any individual who believes that he/she has been discriminated against by the Town in matters related to employment practices may file a written grievance with the Assistant Town Administrator/Human Resources Director or the Town Administrator. The grievance must follow the procedure outlined in Section 5 (Q) of these policies. Individuals who cannot file a written report may submit an audiotape or request an interview in order to supply the required information. The Town investigates all complaints of unlawful discrimination. The grievant will be notified of the results of the investigation. Should the investigation determine a violation of this policy has occurred, remedial measures will be undertaken.

### **B. Americans with Disabilities Act**

The Town of Middleton fully supports the principle of equal opportunities in employment and opposes all forms of unlawful or unfair discrimination on the grounds of disability. No applicant or employee shall receive less favorable treatment because of disability.

The Town of Middleton will provide reasonable accommodation(s) to an employee or job applicant with a disability, unless doing so would cause an undue hardship. This accommodation may include a change in the work environment (or in the way things are usually done) to help a person with a disability apply for a job, perform the duties of a job, or enjoy the benefits and privileges of employment.

An employee or applicant with a disability may request a reasonable accommodation, verbally or in writing, at any time during the application process or during the period of employment. A reasonable accommodation should be requested when the employee knows that there is a workplace barrier that is preventing him/her, due to a disability, from effectively competing for a position, performing a job, or gaining equal access to a benefit of employment.

The Assistant Town Administrator/HR Director and the employee with a disability will engage in an informal, interactive process to clarify individual needs and identify the appropriate reasonable accommodation, requesting reasonable and relevant information and documentation or requiring a medical examination as necessary.

If you believe you have been discriminated against on the basis of disability, you may file a formal complaint with the MCAD. You may also have the right to file a complaint with the Equal Employment Opportunity Commission. Both agencies require the formal complaint to be filed within 300 days of the discriminatory act.

### **C. Pregnant Workers Fairness Act**

The Pregnant Workers Fairness Act (“the Act”) amends the current statute prohibiting discrimination in employment, G.L. c. 151B, §4, enforced by the Massachusetts Commission Against Discrimination (MCAD). The Act expressly prohibits employment discrimination on the basis of pregnancy and pregnancy-related conditions, such as lactation or the need to express breast milk for a nursing child. It also describes employers’ obligations to employees that are pregnant or lactating and the protections these employees are entitled to receive. Generally, employers may not treat employees or job applicants less favorably than other employees based on pregnancy or pregnancy-related conditions and have an obligation to accommodate pregnant workers.

Under the Act:

- Upon request for an accommodation, the employer has an obligation to communicate with the employee in order to determine a reasonable accommodation for the pregnancy or pregnancy-related condition. This is called an “interactive process,” and it must be done in good faith. A reasonable accommodation is a modification or adjustment that allows the employee or job applicant to perform the essential functions of the job while pregnant or experiencing a pregnancy-related condition, without undue hardship to the employer.
- An employer must accommodate conditions related to pregnancy, including post-pregnancy conditions such as the need to express breast milk for a nursing child, unless doing so would pose an undue hardship on the employer. “Undue hardship” means that providing the accommodation would cause the employer significant difficulty or expense. (*see Personnel Policies and Procedures, Appendix C: Break Time for Nursing Mothers*)



- An employer cannot require a pregnant employee to accept a particular accommodation, or to begin disability or parental leave if another reasonable accommodation would enable the employee to perform the essential functions of the job without undue hardship to the employer.
- An employer cannot refuse to hire a pregnant job applicant or applicant with a pregnancy-related condition, because of the pregnancy or the pregnancy-related condition, if an applicant is capable of performing the essential functions of the position with a reasonable accommodation.
- An employer cannot deny an employment opportunity or take adverse action against an employee because of the employee's request for or use of a reasonable accommodation for a pregnancy or pregnancy-related condition.
- An employer cannot require medical documentation about the need for an accommodation if the accommodation requested is for: (i) more frequent restroom, food or water breaks; (ii) seating; (iii) limits on lifting no more than 20 pounds; and (iv) private, non-bathroom space for expressing breast milk. An employer, may, however, request medical documentation for other accommodations.
- Employers must provide written notice to employees of the right to be free from discrimination due to pregnancy or a condition related to pregnancy, including the right to reasonable accommodations for conditions related to pregnancy, in a handbook, pamphlet, or other means of notice.
- Employers must also provide written notice of employees' rights under the Act: (1) to new employees at or prior to the start of employment; and (2) to an employee who notifies the employer of a pregnancy or a pregnancy-related condition, no more than 10 days after such notification.

If you believe you have been discriminated against on the basis of pregnancy or a pregnancy-related condition, you may file a formal complaint with the MCAD. You may also have the right to file a complaint with the Equal Employment Opportunity Commission if the conduct violates the Pregnancy Discrimination Act, which amended Title VII of the Civil Rights Act of 1964. Both agencies require the formal complaint to be filed within 300 days of the discriminatory act.

#### **D. Drug and Alcohol Free Workplace**

The Town of Middleton has a strong commitment to its employees to provide a safe workplace and to establish programs promoting high standards of employee health. The Town of Middleton firmly believes that the use of illegal drugs and misuse of legal drugs, including alcohol, marijuana or prescription medication, is a source of danger in the workplace and a threat to the Town's goal of maintaining a productive and safe work environment. The illegal use, sale, or possession of narcotics, or the use of alcohol or marijuana while on duty or on Town property, is expressly prohibited. Such activity may result in discipline, up to and including termination. Police Officers, Firefighters, and employees who hold a Commercial Driver's License, as a requirement of their position, may

also have to comply with drug testing as set forth in respective Collective Bargaining Agreements or applicable laws. Additionally, CDL Drivers working in the Department of Public Works must comply with the Drug and Alcohol and Testing Requirements policy available on the Town website or available from the Assistant Town Administrator/HR Director. Other positions may also require pre-employment screening for illegal drugs.

The following employees shall be tested for the presence of drugs and alcohol: (a) every employee who has been arrested for any reason related to the prohibited conduct specified in this section; (2) every employee whose on-duty conduct leads to a reasonable suspicion, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, performance indicators, or body odors, that he or she is violating any provision of this section; (3) every employee who has been on disciplinary leave or suspension that resulted from the use or possession of drugs or alcohol. The Town Administrator shall ensure that the testing takes place prior to the employee's return to work.

The employee(s) to be tested shall be transported to and tested off-site by a predetermined testing agency. The Town shall bear the cost of such test.

## **E. Workplace Violence**

It is the policy of the Town of Middleton to maintain a safe environment in all Town buildings, facilities and properties. Threats of violence will not be tolerated by or toward our employees, customers, the general public or anyone who conducts business with the Town of Middleton. All employees are to immediately notify their supervisor should they hear of any threat of violence.

Workplace violence may include, but is not limited to intimidation, threats, and physical attack or property damage. A threat is the expression of intent to cause physical or mental harm regardless of whether the person communicating the threat has the ability to carry out the threat and regardless of whether the threat is contingent, conditional or for future conduct. Physical attack is intentional, hostile, physical contact with another person. It may include hitting, fighting, pushing, shoving, or throwing objects. Property damage is intentional damage to property, which includes property owned by the Town, employees or others.

Other than police officers, employees are not permitted to carry or have in their possession or in their control any type of dangerous weapon while on duty and working as an employee of the Town. This includes any type of hand gun, firearm or any other item that may be construed as a dangerous weapon. Final determination of any item in question will be made by the Chief of Police or his/her designee.

Each incident of violent behavior, whether the incident is committed by another employee or an individual such as a customer, vendor or citizen, must be reported immediately to the



Department Head, Assistant Town Administrator/Human Resources Director or Town Administrator. Employees will be informed of their right to have the Police Department notified. In critical incidents in which serious threat or injury occurs, emergency responders such as Police, Fire and/or Ambulance personnel will be notified immediately.

Should an employee become the victim of an incident of workplace violence, the Town Administrator's Department may offer referral services, including the Employee Assistance Program (EAP), to assist in coping with any effects of the incident. An employee who commits an act of violence as determined by an assessment and investigation of the incident may be subject to disciplinary action up to and including termination. Employees may be referred to the EAP. In these cases, failure by the perpetrating employee to participate in the EAP may result in disciplinary action up to and including termination.

It is a violation of this policy to engage in any act of workplace violence and any such violation is extremely serious. Any employee who has been determined to be in violation will be subject to disciplinary action up to and including termination. The imposition of discipline, including termination, does not preclude an employee or former employee from being subjected to civil liability and/or criminal prosecution.

## **F. Customer Service**

It is the commitment of the Town of Middleton that all municipal employees will strive to provide exceptional customer service both *internally* (employees and elected/appointed representatives) and *externally* (residents, visitors, businesses, vendors, Federal, State, and Municipal representatives or the general public customers that we serve).

All Middleton employees are responsible for understanding and adhering to the following objectives:

- Raise awareness of the necessity and importance of achieving customer service excellence as part of the day to day operations of the Town.
- Ensure interactions and communications with *all* customers are prompt, respectful, friendly, sincere, and sensitive to the customer's concerns with a goal of satisfying their needs.
- Enhance response time to customers at department windows by physically getting up and approaching the window with a smile, professional appearance, and sincere greeting.
- *Listen* to what is being asked, show you care, and respond appropriately, or refer them to someone who can respond appropriately by stating that you are referring them to someone who *can better address* their needs.
- Ensure consistent, professional customer service standards are applied by all employees.

Supervisors and Department Heads are responsible for ensuring that all employees are advised of, understand and comply with the terms of this policy.

## **G. Confidentiality**

The Town deals with many organizations, state and federal agencies, private businesses and residents/citizens. In many cases, the Town is dealing with issues that are of a confidential and sensitive nature. Town employees are responsible for maintaining this confidentiality at all times with regard to information you are provided or known to them.

## **H. Attendance**

Regular attendance during all scheduled hours of work, reporting to work on time and continuing to work to the end of the work period is expected of every employee on each scheduled work day. Non-exempt employees (including part-time and seasonal employees) shall record daily hours worked in accordance with the department's practice (on time sheets) for their supervisor. All time sheets shall be approved by the department head or supervisor before being submitted for payroll. Department heads and supervisors shall record all absences, tardiness and early departures. Unapproved absences, tardiness and early departures lacking satisfactory reasons shall be grounds for disciplinary action by the department head or supervisor. Employees shall not be paid for time lost due to unapproved absences, tardiness and early departures for unsatisfactory reasons.

## **I. Conflict of Interest/Ethics**

All employees shall comply with the State Conflict of Interest Law in all respects. Every two years, all current municipal employees must complete online training. New employees must complete this training within 30 days of beginning public service, and every two years thereafter. Upon completing the program, employees should print out the completion certificate and keep a copy for themselves. Employees will be required to provide a copy of the completion certificate to the Town Clerk. In addition:

- 1.) Personal Gain - Town employees shall avoid any action that might create the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting themselves in a manner which in any way discredits the town, public officials or fellow employees.
- 2.) Outside Employment - No employee shall accept outside employment if such outside employment directly interferes with an employee's performance. No employee shall receive or request compensation from, or act as an agent or attorney for anyone other than the municipality in relation to any matter in which the Town is a party or has a direct and substantial interest.
- 3.) Solicitations and Acceptance of Gifts, Gratuities, Fees, Loans, etc. - No Town employee, acting in his/her professional capacity on behalf of the Town, shall solicit or accept any personal gift, gratuity, loan, fee or other thing of value. Employees may accept fees for work done on their own time provided the individual or group

engaging the employee has no contractual relationship with the Town. No employee shall solicit any gift or gratuity from another employee.

- 4.) No employee shall use or attempt to use his/her official position to secure unwarranted privileges or exemptions for himself/herself or others.
- 5.) No employee shall, by his/her conduct, give reasonable basis for the impression that any person can improperly influence or unduly enjoy his/her favor in the performance of official duties, or that he/she is unduly affected by the kinship, rank, position or influence of any party or person.

## **J. Political Activity**

The provisions of the Federal Hatch Act shall apply to those employees engaged in activities financed wholly or in part by grants from federal agencies; thus, employees are prohibited from using official authority or influence to interfere with or affect the results of an election or nomination; or directly or indirectly coercing, attempting to coerce, command, or advising an employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes. In addition, the following prohibitions shall apply to all employees in order to ensure that both Town employees and the public are protected against improper political activity in Town service. The conflict of interest law, except under limited circumstances, generally restricts public employees from: (1) using public resources in connection with campaign or political activity; (2) using his/her public position to engage in political activity; or (3) engaging in political activity in a public building. Political fundraising is regulated by G.L. c. 55, the campaign finance law. In addition to the restrictions of Chapter 55, Section 23(b)(2)(ii) of the conflict of interest law prohibits all public employees - whether elected, appointed, or policy-making - from directly or indirectly soliciting political contributions of any kind, including personal services, in any situation where such a solicitation is inherently coercive.

## **K. Smoking/Smoke-Free Workplace**

Smoking has been identified as the single most important detriment to an individual's health. For the smoker, the adverse effects of smoking contribute to a loss of personal health. Smoking may also adversely influence the health of those who are exposed to second-hand smoke.

The Smoke-Free Workplace Law, M.G.L. Ch. 270, §22, mandates that enclosed workplaces with one or more employees must be smoke-free. The state law's intent is to protect workers in enclosed workplaces from secondhand smoke exposure. The full text of the law and additional information is available at [www.mass.gov/dph/mtcp](http://www.mass.gov/dph/mtcp). Smoking is prohibited in all enclosed workplaces, including but not limited to all buildings owned, leased, or otherwise occupied by the Town of Middleton. Smoking is not allowed in Town vehicles. Individuals who violate the statewide smoking ban may be subject to civil penalties under the law or may be subject to disciplinary action. Please refer to Massachusetts General Laws, Chapter 270, Section 22 for additional details of the ban.

## **L. Uniforms and Special Clothing**

Upon determination of the department head or appointing authority, employees may be required to wear uniforms, protective gear and other types of special clothing provided by the Town. The Town reserves the right to determine what uniforms are to be worn, who will wear uniforms, what protective gear is required and how such gear will be worn and used. At the termination of employment, the Town may require uniforms and protective gear be returned.

## **M. Wage Garnishment**

Garnishment action against an employees' wages or salary is permitted by law in Massachusetts. Federal laws also permit the preferential attachment of wages by the Internal Revenue Service for delinquent Federal Taxes and child support before other garnishments. The Town recognizes all applicable restrictions, rules, and laws regarding the garnishment or attachment of an employee's wages.

## **N. Safety**

Pursuant to the Act to Further Define Standards of Employee Safety, the Town of Middleton is subject to the standards of the federal Occupational Safety and Health Administration ("OSHA"). Further, it is the policy of the Town of Middleton that every employee is entitled to work under the safest and healthiest possible conditions in all occupations. Every reasonable effort will be made to provide and maintain a safe and healthy work place, safe equipment, proper materials and to establish and insist upon safe methods and practices at all times. Accidents which injure people, damage machinery or equipment and destroy materials or property cause needless suffering, inconvenience and expense. Any incidents resulting in personal injury or property damage shall be reported immediately to the appropriate department head or designee who shall immediately report it to the Town Administrator.

All safety rules and regulations developed by the department head or appointing authority are to be considered directive in nature and applicable to all employees. It is the basic responsibility of everyone to make safety realization a concern. Employees shall observe the rules of conduct and safety and properly use the safety equipment provided. Any employee who notices an unsafe working condition shall report immediately the condition to the employee's supervisor.

It is the supervisor's responsibility to ensure the need, availability and utilization of appropriate protective clothing and equipment when performing any hazardous operation. All employees who are furnished safety equipment and/or clothing by the Town will be required to wear such safety equipment at all times while doing the work for which the equipment is furnished.

Supervisors are required to:

- 1.) Take appropriate action whenever an infraction of good safety practices, unsafe behavior or failure to use safety clothing or equipment by employees is detected and report said infraction to the appropriate department head.
- 2.) Investigate accidents and/or injuries and report to the appropriate department head so that appropriate corrective action may be taken.
- 3.) Assigned work sites should be investigated by the supervisor prior to the start of a project to ensure that necessary safety practices are in place.

If an accident occurs during working hours involving a Town employee and/or private party, a report should be filed immediately, along with a Form 101 "Employer's First Report of Injury or Fatality" (Mass Division of Industrial Accidents) and submitted to the Town Accountant's office. A copy of Form 101 can be found online at:

<http://www.mass.gov/lwd/workers-compensation/forms/form-list-numbered/form-101-instructions-english.pdf>. See the Workers Compensation section of these policies for further instructions.

- 4.) As of the Effective Date of these policies, the Town's medical provider for medical treatment of work-related injuries or pre-placement physical exams is Quadrant Health Strategies, 500 Cummings Center #4350, Beverly, MA 01915.

## **O. Use of Town Property**

According to the Massachusetts Conflict of Interest Law, publicly owned or supported property, equipment, labor or services shall be used for public purposes only. Employees shall not use, while on-duty or off-duty, Town property for personal use or gain, nor shall an employee allow such use by any other individual, town, company or organization. Please refer to Chapter 268A of the Massachusetts General Laws for further information on the Massachusetts Conflict of Interest Law.

### Telephones

It is recognized that Town phones must be used for personal calls on occasion during the work day. Such personal calls must be kept to a minimum. Whenever possible, employees should make non-emergency calls during scheduled breaks or when intervals in work assignments allow.

### Office Equipment

Every effort must be made not to use office equipment such as photocopiers, printers and FAX machines for personal purposes. In circumstances where use of the machines for personal purposes is necessary and approved by the department head, the employee must limit the extent to which these resources are used.

### Salvage and Surplus Materials

No surplus supplies or materials may be given away, auctioned off or otherwise sold without the permission of the Town Administrator. Salvage materials such as tree trimmings, bark, mulch, gravel and excavated boulders may be left at designated locations for public use. Neither Town employees nor their family members are allowed under any circumstances to take materials that have been left for the public as salvage.

#### Handling Requests for Private Use of Town Property

Employees may not allow any committee member, citizen or other organization, group or individual to use Town property for private use or for any other use than for Town business. All requests for private use of Town property must be referred to the Town Administrator's Office.

#### Conduct of Private Business

In no circumstances may an employee use Town property for any personal business enterprise.

### **P. Vehicle Use**

It is the policy of the Town of Middleton that certain positions require employee access to Town vehicles. Town vehicles are not personal vehicles and are not for personal use. Town vehicles should be viewed as belonging to the citizens of the Town and are utilized for the purposes consistent with providing services to those citizens.

This policy applies to all Town employees who are afforded the use of Town vehicles. The purposes of this policy are as follows:

- To encourage safe operation of Town vehicles
- To set forth the guidelines under which Town vehicles may be used
- To minimize transportation costs and liability

The following procedures are considered to be minimum standards for Town vehicle use. Departments may develop more restrictive procedures.

#### Rules Governing Use of Town Vehicles

- 1.) With the exception of designated vehicles, town vehicles may only be used for legitimate Town business.
- 2.) Town vehicles may not be used to transport any individual that is not directly or indirectly related to Town business. Passengers shall be limited to Town employees and individuals who are directly associated with Town work activity (committee members, consultants, contractors, etc.). Ordinarily, no family members may be transported.

- 3.) Vehicles should contain only those items for which the vehicle is designed. The Town shall not be liable for the loss or damage of any personal property transported in the vehicle.
- 4.) Employees are expected to keep Town vehicles clean, and to report any malfunction or damage to their supervisor immediately.
- 5.) Employees are expected to park vehicles in safe, legal locations.
- 6.) Employees must turn the vehicle ignition off, remove the keys, and lock the vehicle when left unattended.
- 7.) Drivers and all passengers must wear seatbelts in vehicles so equipped during operation of the vehicle.
- 8.) No smoking is allowed in any Town Vehicle.
- 9.) Employees who operate municipal vehicles shall have a valid motor vehicle operator's license and of the class required for the specific vehicle being operated.
- 10.) Employees who operate municipal vehicles shall adhere to traffic laws.
- 11.) Employees who operate municipal vehicles shall not use electronic devices except with "hands-free" or Bluetooth options and further shall limit distractions through the use of cell phones and other hand-held electronic devices even when using "hands-free" options.
- 12.) To the extent applicable, use of municipal vehicles for personal purposes may be subject to federal income tax withholding.

### Reporting of Accidents

Whenever a municipal vehicle is involved in an accident, or subject to damage, or in the event an employee's personal vehicle is damaged during an approved, work-related trip, the employee operating the vehicle is required to immediately notify his/her immediate supervisor and contact the Middleton Police Department or the local police department if in another jurisdiction. An Accident Report must be filed with the Town's liability insurance provider within one business day of the accident. When the estimated damage exceeds \$1,000.00, an Accident/Incident Report shall be filed with the Middleton Police Department.

### **Q. Motor Vehicle Drivers**

Middleton is committed to having only safe drivers operating vehicles on behalf of the town.

All drivers must have a valid driver's license of the proper class and appropriate endorsements where necessary.

Drivers must not drive and shall immediately notify their supervisor if their license has been suspended or revoked. Failure to notify the supervisor of a loss of license, failure to



renew a required license, or loss of the right to operate a motor vehicle may result in discipline. Failure to maintain a required license may result in discipline.

Drivers must report all accidents and moving violations to their supervisor.

All drivers must adhere to Massachusetts law, including an Act requiring the hands-free use of mobile telephones while driving.

Prospective employees will be required to report all accidents and moving violations at the time of hire. Existing employees moving into driving positions will be required to complete a similar report at the time of transition. All drivers will be required to complete an accident and moving violation report annually.

Driver motor vehicle records (MVR) will be obtained on new drivers at the time of employment or when transitioning into a driving position. MVRs will be obtained annually thereafter. The Town Administrator or designee will determine the acceptability of a driver's MVR based on the grid below. Prospective employees must have an MVR that is CLEAR or ACCEPTABLE in order to be hired for positions requiring driving. Current drivers must have a record that is CLEAR, ACCEPTABLE, or BORDERLINE. The Town Administrator may restrict the driving privileges of individuals with BORDERLINE records or require drivers to receive additional training or monitoring. Drivers with POOR records will be suspended from driving on town business.

	# of Preventable Accidents				
		0	1	2	3+
# of Violations	0	CLEAR	ACCEPTABLE	BORDERLINE	POOR
	1	ACCEPTABLE	ACCEPTABLE	BORDERLINE	POOR
	2	ACCEPTABLE	BORDERLINE	POOR	POOR
	3+	POOR	POOR	POOR	POOR
	Any Major (past 5 years)	POOR	POOR	POOR	POOR

## **R. Employees Private Property**

Employees shall be responsible for all personal property brought onto Town premises. It is each employee's responsibility to secure all personal items in accordance with the property's value. Purses and wallets shall be kept with the employee at all times. If this is inconvenient, such items shall be locked in a desk, file cabinet or other similar depository for safe keeping. The Town shall not be responsible for theft or loss.



## **S. Injury on the Job**

If an employee is injured while working for the Town, such employee shall immediately inform the department head or supervisor. The employee's supervisor shall arrange to complete all necessary liability insurance paperwork with the Town's insurance provider. It is important that every injury be reported. Worker's compensation and Injury on Duty laws provide benefits for employees injured on the job. Medical expenses and the amount of compensation to which an employee is entitled for lost time are set by state law. All injuries must be reported immediately so that necessary reports may be completed. If medical attention for the injury is required, a medical statement shall be required before the employee returns to work.

## **T. Illness on the Job**

If an employee becomes sick while at work, the department head or supervisor shall arrange for emergency first aid treatment, if needed. Beyond this care, the treatment of an employee who becomes ill is the responsibility of the employee and the family physician, unless the illness is related to the employee's work.

## **U. Inclement/Severe Weather Closing**

Inclement/severe weather closing(s) apply during declared Massachusetts State of Emergencies or as declared by the Town Administrator. This decision shall apply to all Town Offices and clerical staff of other departments. All non-union, non-essential personnel need not report to work in accordance with the specific conditions stated above. Any non-essential personnel already at work may go home as safety permits. In each case said employees will be compensated by the Town. Every effort must be made to ensure essential town business is completed as necessary. Departments should work to anticipate potential closings and to provide alternatives to ensure scheduled tasks are completed on time.

If a State of Emergency is declared, after conferring with the Town's MEMA Director, non-union, non-essential employees will not be required to report to work and will be paid for the day by the Town.

This policy is subject to change by the Board of Selectmen, and all employees will be notified accordingly.

In addition, each employee may make a personal decision to stay home if he/she feels the weather dictates that is safer for them; in this case, said employee may choose to take accrued paid time off to be paid for that day. Such use shall not be at the discretion of the department head.

## V. Information Technology

Town of Middleton employees have access to and the use of information technology resources provided by the town. These information technology resources (ITRs) include computers, printers and devices, programs, data, the local area network, e-mail, and internet access. Any person with questions regarding the application or meaning of this policy should seek clarification from the Health Director who serves as the Information Technology Department (ITD) Head.

Use of Town ITRs by any employee shall constitute acceptance of the terms of this policy and any such additional policies. It is the responsibility of any person using Town ITRs to read, understand, and follow this policy. All employees who use office computers or access town email or servers via personal devices (home computers/phones/tablets), etc. are required to complete a one-time, on-line training. In addition, users are expected to exercise reasonable judgment in interpreting this policy and in making decisions about the use of ITRs. Failure to observe this policy may subject individuals to disciplinary action, including termination of employment.

### 1.) Acceptable Uses

- Town ITRs are intended for and should be used for Town business only
- Employees are encouraged to use provided ITRs in support of Town goals and objectives
- Incidental personal use is permitted, provided it does not conflict with the security guidelines of this policy, interfere with workstation or network performance, or result in employee productivity loss
- Network accounts are to be used by the authorized owner of the account for the authorized purpose
- Applications and computers are to be logged off at end of business day

### 2.) Unacceptable Uses

- Perpetrate an illegal or improper act, including violation of any criminal or civil laws or regulations, whether state or federal, or the Town's bylaws, rules, regulations or policies
- Use for political purpose
- Use for commercial purpose
- Send threatening or harassing messages, whether sexual or otherwise
- Access or share sexually explicit, obscene, or otherwise inappropriate materials or to infringe any intellectual property rights
- Gain, or attempt to gain, unauthorized access to any computer or network
- Use that causes interference with or disruption of Town ITRs, including propagation of computer viruses or other harmful programs

- Intercept communications intended for other persons
  - Misrepresent either the Town or a person's role at the Town
  - Distribute chain letters
  - Access inappropriate sites including adult content, online gambling, or dating sites
  - Libel or otherwise defame any person
  - Install software or hardware not approved by ITD
- 3.) Data Confidentiality - In the course of performing their jobs, Town employees often have access to confidential or proprietary information, such as personal data about identifiable individuals or commercial information about business organizations. Under no circumstances is it permissible for employees to acquire access to confidential data unless such access is required by their jobs. Under no circumstances may employees disseminate any confidential information that they have access to, unless such dissemination is required by their jobs.
- 4.) Software / Copyright Protection - Computer programs are valuable intellectual property. Software publishers are entitled to protect their property rights from infringement. In addition to software, legal protections can also exist for any information published on the Internet, such as the text and graphics on a web site. As such, it is important that users respect the rights of intellectual property owners. Users should exercise care and judgment when copying or distributing computer programs or information that could reasonably be expected to be copyrighted.
- 5.) Network Security - Most desktop computers are connected to the Town's local area network. It is critically important that users take particular care to avoid compromising its security. All network user accounts require strong password authentication and all passwords must be established according to rules promulgated by ITD. Users should never share their passwords with anyone else, and should promptly notify ITD personnel if they suspect their passwords have been compromised. In addition, users who will be leaving their PCs unattended for extended periods should either log off the network or have a password-protected screen saver in operation. Finally, no user is allowed to access external networks or Internet-based file sharing services unless they have received specific permission from ITD.
- 6.) Computer Viruses – The Town implements a number of industry standard measures to ensure the security of the Town's local area network (blocked internet sites, filtering of incoming / outgoing e-mail, etc.), but users should still exercise reasonable precautions in order to prevent the introduction of computer viruses.
- 7.) E-mail - When using e-mail, there are several points users should consider. First, because e-mail addresses identify the organization that sent the message (username@middletonma.gov), users should consider e-mail messages to be the equivalent of letters sent on official letterhead. For the same reason, users should ensure that all e-mails are written in a professional and courteous tone. Second,

although many users regard e-mail as being similar to a telephone in offering a quick, informal way to communicate, users should remember that e-mails can be stored, copied, printed, or forwarded by recipients. As such, users should not write anything in an e-mail message that they would not put into a memorandum. Finally, users should understand that all e-mail created or received by a Town employee is a public record and may be subject to public access and disclosure through the provisions of the MA Public Records Law, MGL c.66 §10.

- 8.) Wireless Access – The Town provides wireless access for Town staff for use with town devices. A guest wireless system is provided for staff personal use as well as for vendors and other visitors to Town Hall.
- 9.) Remote Access to Town ITRs - Users must request written permission to use webmail or VPN access from the ITD.
- 10.) No Expectation of Privacy - Town ITRs are the property of the Town of Middleton and are to be used in conformance with this policy. The Town retains control over the efficient and proper operation of the workplace, reserves the right to monitor, access, review, copy, store, or delete any electronic communications without prior notice, including personal messages, from any system for any purpose and to disclose them to others, as it deems appropriate. Users should be aware that ITD, in order to ensure proper network operations, routinely monitors network traffic. Use of Town ITRs constitutes express consent for the Town to monitor and/or inspect any data that users create or receive, any messages they send or receive, and any web sites that they access.
- 11.) The Town retains ownership of all resources, materials, documents and files stored, maintained, deleted, modified, received, sent, or otherwise accessible via the ITRs unless otherwise copyrighted, trademarked, or agreed to by the Town Administrator.
- 12.) “Bring Your Own Device” (BYOD) Program – With permission from their respective department head this program permits use of personally owned smart phones and/or tablets (“personal devices”) by Town of Middleton employees to access Town network resources. Access to and continued use of Town network services is granted with permission from their respective department head, and on condition that each user reads, understands, and follows this policy concerning the use of these devices and services.
  - a. Requirements for all BYODs Accessing Town Network Services - The ITD establishes rules of behavior that may vary depending on the type of device or operating system configuration. Users
    - will not download or transfer sensitive business data to their personal devices. Sensitive business data is defined as documents or data whose loss, misuse, or unauthorized access can adversely affect the privacy or welfare of an individual (personally identifiable information), the outcome of a charge/complaint/case, proprietary information, or Town financial operations

- agree a complex network password is to be used to access email and network resources will maintain the original personal device operating system and keep it current with security patches and updates, as released by the manufacturer
  - will not “jail break” the personal device (installing software that allows the user to bypass standard built-in security features and controls)
  - agree to not share the personal device and network accounts with other individuals or family members, due to the business use of the device (access to Town e-mail and network resources)
  - will delete any sensitive business files that may be inadvertently downloaded and stored on the personal device through the normal process of viewing e-mail attachments
  - will immediately notify ITD if the personal device is lost or stolen, at which point ITD will change the user’s complex network password
- b. Expectation of Privacy - ITD personnel respect the privacy of your personal device and will only request access to the device to assist with implementation of security controls, or to respond to legitimate discovery requests arising out of administrative, civil, or criminal proceedings. While usage of the personal device itself is both personal and business, the Town’s ITR Policy regarding the use/access of Town e-mail and other Town system/network services remains in effect.
- c. Unless otherwise arranged, employees will not be reimbursed for costs associated with using a personal device for work related purposes.

## **W. Social Media Use**

Maintaining and updating social media sites will be used strictly for conveying information about the Town to the public. The Town of Middleton’s official website ([www.middletonma.gov](http://www.middletonma.gov)) will be the primary internet presence. Other social media sites may be used with authorization from the ITD. Wherever possible, all authorized Social Media sites shall link back to the Town of Middleton’s official website.

Social Media refers to the creation and exchange of information among individuals through Internet based applications. This includes but is not limited to information in the form of text, pictures, links to other sites or any other type of communication posted to the approved Social Media site. Examples of Social Media sites include: Twitter, Facebook, LinkedIn, YouTube etc.

The establishment and use by any Town department, division or employee of an official Town of Middleton social media site is subject to approval by the Town Administrator and the ITD. Once a site is requested and established by a Town department, the department head shall be the site administrator unless he/she designates another member of the

department. It is the responsibility of the department head to monitor and ensure that the established site is abiding by all guidelines outlined in this policy.

Before a Social Media site is established, the site administrator must meet with the ITD to review this policy. They must also submit social media account credentials to the ITD upon creation and any time credentials may change.

The Town shall be the sole owner of all Social Media accounts and reserves the right to remove any postings which contain inappropriate content including but not limited to that which:

- 1.) promotes, fosters, or perpetuates discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law, or source of income.
- 2.) contains defamatory or personal attacks.
- 3.) contains information that may tend to compromise the safety or security of the public or public systems.
- 4.) is in violation of any federal, state, or local law, rule or regulation;
- 5.) encourages illegal activity
- 6.) discloses confidential information
- 7.) is dishonest, inaccurate or relates to personal or personnel issues

Any Town employee who is not a site administrator and would like specific content posted to the Town's Social Media site(s) shall submit their request to the ITD.

If a site administrator receives a request requiring a response from the Town, the site administrator may direct the request to the Town Administrator, ITD, or the appropriate department for response.

Content posted by a member of the public to any Town Social Media site may not reflect the opinions or policies of the Town. The Town reserves the right to terminate public comment capabilities.

The Town reserves the right to deny access to any individual who violates the Town's Social Media Policy without prior notice.

Political endorsements and for-profit advertisements or products for sale shall not be posted. It shall be understood that the Town of Middleton's Social Media sites are not maintained 24x7 and immediate responses to any requests via post, email etc. may not occur.

When a Town employee posts or responds to a comment, in his/her capacity as a Town employee, the employee should do so in the name of the Town department, and the

employee shall not share personal information about himself or herself, or other Town employees except as required for Town business.

It shall be understood that any official Town of Middleton social media account will not automatically 'follow' people who follow us. The Town reserves the right to reply or decline to reply to any/all comments posted on Town social media accounts.

All Social Media accounts are deemed public records under the Massachusetts General Laws. All content posted shall adhere to the State of Massachusetts public records retention policies. Any content that was posted and then removed shall also be retained by the site administrator as per state retention policy. Any content maintained in a Social Media format that is related to Town business, including a list of subscribers, posted communication, and communication submitted for posting, may be a public record subject to public disclosure.

Failure to comply with this policy may lead to violations of law and disciplinary action where appropriate.

## **X. Notice to employees - Visitors Code of Conduct**

The Town of Middleton's employees strive to provide a positive experience for those visiting Town facilities, by following the "Customer Service" and "Standards of Conduct & Confidentiality" policies. In addition, the Town supports a workplace that is conducive to personal safety and security and is free from intimidation, threats or violent acts. The Town does not tolerate workplace violence, including the threat of violence by anyone who conducts business with the Town.

The Town will not tolerate harassing conduct that affects employment conditions, that interferes unreasonably with an individual's performance or that creates an intimidating, hostile or offensive work environment.

Complying with this Visitor's Code of Conduct is required by all people doing business with Town employees.

Violators who do not comply with this policy may be asked to leave the premises.

Expected Conduct:

- Avoid causing disturbances or disruptions
- Show respect for others, building facilities, and personal property of others.
- Use common courtesy when interacting with others.
- Do not engage in lewd or offensive behavior
- Any form of violence is prohibited



- Smoking, drinking alcohol, or appearing to be under the influence of any illegal substance is prohibited.

Repeated violations may result in permanent suspension of facility privileges.

## **Section 7: Personnel Records**

### **A. Personnel File**

Personnel records of all Town employees shall be kept by the Assistant Town Administrator/HR Director or the Town Administrator in an electronic or paper format and shall contain the following, in segregated files if necessary according to state or federal law:

- 1.) Employee application and/or resume
- 2.) A copy of any reference checks
- 3.) A copy of any background investigation report will be stored in a locked file in the Assistant Town Administrator/HR Director's office or on a secure electronic computer folder.
- 4.) A copy of any physical and psychiatric examination reports or health reports
- 5.) Any results of tests and examinations taken to demonstrate qualifications
- 6.) A report of all actions reflecting the original appointment, promotion, demotion, reassignment, transfer, separation or layoff. Actions relevant to the employee's rate of pay or position, title, commendations, records of disciplinary action, training records, performance evaluations and other records that may be pertinent to the employee's employment record.

Employees are responsible for notifying their supervisor and the Treasurer/Collector's Office of any change in their personal status including address changes, telephone number, dependents, marital status or name change.

The Town is required to give notice to an employee within 10 days of the Town placing in the employee's personnel record any information to the extent that the information is, has been used or may be used, to negatively affect the employee's qualification for employment, promotion, transfer, additional compensation or the possibility that the employee will be subject to disciplinary action. The notification and review caused by the placing of negative information in the personnel record cannot be counted against the employee's right to two reviews in a calendar year.



## **B. Employee Time Records**

Each Department Head or his or her designee shall submit to the Treasurer/Collector's Department a bi-weekly time sheet for each employee. This time sheet shall specify the number of hours worked and any leave taken, as well as any pertinent information for the personnel records, as legally required. The Treasurer/Collector Department shall be responsible for maintaining a permanent record of the time worked for each employee. Time sheets must be signed by the supervisor to approve the hours worked and pay amount.

## **C. Access to Employee Personnel Records**

Personnel records shall be considered confidential and access to records shall, unless circumstances dictate otherwise, be limited to the Assistant Town Administrator/HR Director or designee. Any employee upon request may have access to review his/her personnel file or be provided with a copy of his/her personnel file on two separate occasions per calendar year. Access and/or copies shall be provided within five business days of the employee's written request. The employee's review of his/her employment record shall be in the presence of the employee's department head, HR Director or designee. If any employee disagrees with any information contained in his/her personnel record, he/she may submit a written statement explaining his/her position which shall then become part of the permanent record.

Unless written authorization is received from an employee, except to verify employment, no information concerning an employee shall be released unless required by law.

## **Section 8: Benefits**

*Note: Employee benefits outlined in this Personnel Policies and Procedures Manual may be updated as necessary and are effective as of the date approved by the Board of Selectmen. Employees receiving benefits exceeding those outlined in the approved Personnel Policies and Procedures Manual, will continue to receive their present benefits until such time as they terminate or retire from the employment of the Town of Middleton or their contract or collective bargaining agreement is renegotiated.*

Regular full-time employees and part time benefit eligible employees are eligible for full or pro-rated benefits as outlined in this section. Part-time benefits eligible employees are eligible for pro-rated sick, vacation, holiday pay and bereavement leave as outlined in the sub-sections of this section. They may also participate in the town's Group Health and Life Insurance Plans.

Employees covered by this policy are eligible for leave in accordance with this policy. In some cases, employees meeting certain eligibility guidelines are eligible for more extended benefits in accordance with the Family and Medical Leave Act of 1993 summarized in Section 8B.

## **A. Leave of Absence**

Reasonable requests for leaves of absence may be granted by the Department Head, with the approval of the Town Administrator. At their discretion, such leaves of absence shall fall into one of the following categories:

- 1.) Personal - Allowable only if the employee has exhausted his/her vacation and/or personal days and only if the workload permits and the absence of the employee will not cause undue hardship to the department. The maximum leave time is eight weeks per rolling year. This leave will be taken as unpaid leave. The Town will require any such employee on personal leave to pay for all health, dental, life, FSA or any outstanding premium if they are on an unpaid leave of absence at the rate that they were paying at the time of taking the leave. The employee will be responsible for coordinating such payment with the Treasurer/Collectors office prior to going out on leave.
- 2.) Parental - An employee who has completed the initial probationary period shall be entitled to 8 weeks of unpaid parental leave for the purpose of giving birth or for the placement of a child under the age of 18, or under the age of 23 if the child is mentally or physically disabled, for adoption with the employee who is adopting or intending to adopt the child; provided, however, that any 2 employees of the Town shall only be entitled to 8 weeks of parental leave in aggregate for the birth or adoption of the same child. The employee shall give at least 2 weeks' notice to the Town of the anticipated date of departure and the employee's intention to return, or provide notice as soon as practicable if the delay is for reasons beyond the individual's control. The employee shall be restored to the employee's previous, or a similar, position with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of the leave. An employee on parental leave for the adoption of a child shall be entitled to the same benefits offered by the Town to an employee on parental leave for the birth of a child. If the Town agrees to provide parental leave for longer than 8 weeks, the Town shall not deny the employee the rights under this section unless the Town clearly informs the employee, in writing, prior to the commencement of the parental leave, and prior to any subsequent extension of that leave, that taking longer than 8 weeks of leave shall result in the denial of reinstatement or the loss of other rights and benefits.
  - a. The Town shall not be required to restore an employee on parental leave to the previous or a similar position if other employees of equal length of service credit and status in the same or similar positions have been laid off due to economic conditions or other changes in operating conditions affecting employment during the employee's parental leave; provided, however, that the employee on parental leave shall retain any preferential consideration for another position to which the employee may be entitled as of the date of the leave.

- b. The parental leave shall not affect the employee's right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which the employee was eligible at the date of the leave or any other advantages or rights of employment incidental to the employment position; provided, however, that the parental leave shall not be included, when applicable, in the computation of the benefits, rights and advantages; and provided further, that the Town need not provide for the cost of any benefits, plans or programs during the parental leave unless the employer provides for such benefits, plans or programs to all employees who are on a leave of absence. Nothing in this section shall be construed to affect any bargaining agreement or town policy which provides for greater or additional benefits than those required under this section.
- c. The Town will require any such employee on parental leave to pay for all health, dental, life, FSA or any outstanding premium if they are on an unpaid leave of absence. The employee will be responsible for coordinating such payment with the Treasurer/Collectors office prior to going out on leave.
- d. An employee may voluntarily use any accrued sick, vacation or personal time the employee has concurrently with all or part of her maternity leave. The Town cannot require an employee to use his/her accrued paid vacation or personal time concurrently with all or part of his/her parental leave. Such an election is to be made at the time of the request for leave.
- e. Parental Leave shall run concurrently with Family and Medical Leave.

## **B. Family and Medical Leave**

The Family and Medical Leave Act (FMLA) entitles employees to take up to 12 work weeks of unpaid, job-protected leave each year for specified family and medical reasons.

- 1.) Employee Eligibility - To be eligible for FMLA benefits an employee must have worked for the town for a total of at least 12 months and have worked at least 1,250 hours over the previous 12 months (average 24 hours per week) immediately preceding the leave.
- 2.) Reasons for Taking FMLA Leave —
  - a. To care for a son or daughter after birth or placement of a child for adoption or foster care. The FMLA leave guarantee expires 12 months after the birth or placement.
  - b. To care for a spouse, son, daughter, or parent who has a serious health condition. Caring for a family member who has a serious health condition, includes both physical and psychological care. Thus, even if the family member is hospitalized,

leave should be granted to the parent or child who intends to be there to provide comfort and reassurance.

- c. For a serious health condition that makes the employee unable to perform the essential functions of his/her job.

A "serious health condition" is an illness, injury, or impairment or physical or mental condition that involves in-patient care in a hospital or other medical care facility or at least two visits to or by a health care provider, or at least one visit to a health care provider that results in a regimen of continuing treatment under the supervision of the health care provider.

A "health care provider" is any doctor or osteopath authorized to practice medicine or osteopathy in the state the doctor practices and other persons deemed capable by the Secretary of Labor to perform health care services including podiatrists, dentists, clinical psychologists, optometrists, nurse practitioners and nurse midwives and Christian Science practitioners.

- d. For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.
- e. An eligible employee may also take up to 26 work weeks of leave during a "single 12-month period" (as it pertains to Military Family Leave Provisions under the FMLA) to care for a covered service member with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the service member.

3.) Intermittent Leave – Under some circumstances, employees may take FMLA leave intermittently – which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule.

- a. If FMLA leave is for birth or placement for adoption or foster care, use of intermittent leave is subject to the approval of the Town Administrator.
- b. FMLA leave may be taken intermittently whenever medically necessary to care for a seriously ill family member, or because the employee is seriously ill and unable to work.

4.) Advance Notice and Certification – Employees seeking to use FMLA may be required to provide:

- a. A 30 day advance notice when the reason for the leave is known in advance. If the employee fails to provide such notice for a foreseeable reason, the Town may refuse to allow the employee to leave until 30 days after notice.

- b. Medical certifications supporting the need for leave due to a serious health condition affecting the employee or an immediate family member. The Town may require second and third opinions, at the Town's expense, and a fitness for duty report to return to work.
  - c. The Town is entitled to request medical certification during use of FMLA time every 30 days.
- 5.) Use of Sick Leave – Employees are required to use accrued paid time off during Family and Medical Leaves of Absence in the following order: (1) paid vacation leave, (2) paid personal leave; (3) paid sick leave. In such circumstances, use of sick leave counts as part of the 12 week FMLA entitlement; FMLA will run concurrently with sick leave.
- 6.) Rolling Year Method – The Town elects a “rolling” 12-month period measured backward from the date an employee uses any leave under the Act to calculate when an employee's entitlement to unpaid FMLA leave begins and ends.
- 7.) Maintenance of Health Benefits – The Town is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. The Town must make arrangements for employees to pay their share of the health plan premium. The Town's obligation to maintain health benefits ends if the employee's premium payment becomes more than 30 days late.
  - a. The Town's obligation to maintain health insurance coverage during the FMLA leave ends when the employee's entitlement to such leave ceases or when the employee informs the Town that he/she does not intend to return from leave or if the employee fails to return from leave.
  - b. If the employee does not return from leave for reasons unrelated to the employee's own health or the health of the employee's spouse, parent or child, the Town may be entitled to recover health insurance premiums paid during the period of FMLA leave.
  - c. If the employee refuses to pay back the premiums, the Town must initiate legal action to recover the money because Massachusetts law prohibits such deductions from wages.
- 8.) Unlawful Acts by the Town – It is unlawful for the Town to interfere with, restrain or deny the exercise of any right provided by FMLA. It is also unlawful for the Town to discharge or discriminate against any person for opposing any practice or because of involvement in any proceeding, related to FMLA.
- 9.) Enforcement – The FMLA will be enforced by the U.S. Department of Labor through investigation and resolution of complaints and violations.

## C. Small Necessities Leave Act

Eligible employees are permitted to take a total of twenty four (24) hours of unpaid leave during any 12-month period, as defined herein.

An eligible employee need not take the entire 24 hour leave at once, but may take a few hours of time depending on the employee's needs, as long as the total leave does not exceed 24 hours during any 12-month period. The Town requires that employees take the leave in minimum increments of no less than one hour. Employees are required to use accrued paid time off during Small Necessity Leaves of Absence in the following order: (1) paid vacation leave, (2) paid personal leave; (3) paid sick leave.

### 1.) Eligible Reasons for Taking Leave:

- To participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent/teacher conferences or interviewing for a new school; or
- To accompany a son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations; or
- To accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes.

### 2.) In order to be eligible, the employee must

- a. have been employed for at least 12 months by the Town, and
- b. provided at least 1,250 hours of service to the Town during the previous 12-month period.

### 3.) Notice Requirement/Certification: To be entitled to the leave, employees must provide notice to the employer as follows:

- If the need for leave is anticipated, the employee must request the leave at least seven days in advance;
- To the extent possible, an employee must provide written notice to the employer. If not possible, an employee may request leave verbally.
- An employee's request for leave must be kept in the employee's personnel file and must be maintained for three (3) years in accordance with MGL C. 149, S. 52C. Records and documents relating to medical certifications or medical histories of employee's family members must be maintained as confidential medical records and kept in separate files from the usual personnel files.

4.) Unlawful Acts by Employers: A violation of the Act occurs when the employer:

- Fails to provide the time requested by the eligible employee; or
- Fails to restore the employee to the position held by the employee when the leave commenced, or fails to restore the employee to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment; or
- Discharges or in any manner discriminates against any individual because the individual
  - has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to the Act; or
  - has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under the Act; or
  - has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under the Act.

5.) Rolling Year Method – The Town elects a “rolling” 12-month period measured backward from the date an employee uses any leave under the Act to calculate when an employee’s entitlement to unpaid Small Necessities leave begins and ends.

6.) Enforcement: The Act authorizes the Attorney General to initiate either a criminal action against an employer who violates the Act and/or to seek injunctive relief against such employer. Any employer convicted of a criminal violation of the Act is subject to a \$500 fine.

In addition, any aggrieved employee may institute a civil action for injunctive relief and/or damages against the employer. Should the employee prevail, he or she will be entitled to triple damages, costs of the litigation and reasonable attorney’s fees.

For additional information, please contact the Attorney General’s Fair Labor and Business Practices Division in Boston at (617) 727-3465 or visit:

<http://www.mass.gov/ago/bureaus/public-protection-and-advocacy/the-fair-labor-division/>

## **D. Sick Leave**

Employees will be eligible to accrue sick leave time bi-weekly from the date of hire and consistent with the terms and conditions of this policy.

Sick leave may be granted to employees only under the following conditions:



1. When they are incapacitated from the performance of their duties by illness or injury.
2. When through exposure to a contagious disease the presence of the person at their job would reasonably jeopardize the health of others.
3. With a doctor's note for periods longer than a three-day continuous absence or five days in a calendar month.

All full-time and permanent part-time employees shall accumulate sick leave at the rate of 120 hours per year, pro-rated for part-time schedules. For employees whose daily schedules vary, a day of sick time earned is based on the weekly average hours worked divided by the weekly average days worked. Sick time use is hour for hour of missed scheduled time.

Sick leave is generally for protection of employees against loss of pay due to personal illness. However, accrued sick leave may be used by an employee for illness of a dependent child or spouse. Additional time for this reason may be arranged on an individual case by case basis with permission of the Assistant Town Administrator/HR Director.

Sick time may accumulate from year to year up to a total of 1,200 hours but there is no buy-back of sick time permitted during the course of employment or upon separation from service.

## **E. Sick Leave Bank**

Middleton has established a sick leave bank policy as outlined below. Not all collective bargaining units are covered by the sick leave bank. Please see your CBA for details.

1. Except as otherwise provided, all benefitted employees may participate in the sick leave bank if he/she has worked for the Town for at least twelve (12) months and worked at least 1,250 hours in the twelve (12) months before using sick leave bank benefits.
2. Employees may enroll in the sick leave bank during the annual open enrollment period.
3. The sick leave bank is administered by the Town Administrator's Office.
4. Employees desiring to withdraw sick leave from the sick leave bank must make application to the Town Administrator's Office.
5. On July 1 of every fiscal year every, employees participating in the sick leave bank will have 24 hours of accrued sick leave transferred from his/her accrued sick leave to the sick leave bank. A member may cease participating and contributing to the sick leave bank by providing written notice to the Treasurer-Collector's Office by June 30; however, sick leave hours previously contributed by said employee shall



not be returned to his/her accrued sick leave account but shall remain available for use in the sick leave bank.

6. In order to be eligible to withdraw sick leave from the sick leave bank, an employee shall have exhausted all of his/her sick leave, personal leave, and vacation leave, be a participant in the sick leave bank, and be approved for or eligible for leave under the Family Medical Leave Act (FMLA).
7. In order to be eligible to withdraw sick leave from the sick leave bank, an employee must have suffered an illness, injury, disability, or quarantine resulting in thirty (30) consecutive days of work missed or resulting in five (5) days without pay, whichever comes first, or otherwise be deemed eligible for FMLA as stipulated under item 6 above.
8. An employee eligible for workers compensation during the period of disability is not eligible to apply to withdraw sick leave from the sick leave bank.
9. An employee shall become ineligible to receive leave from the sick leave bank, and said leave shall immediately discontinue, upon resignation or termination of employment, retirement, or voluntary withdrawal from the sick leave bank. An employee shall not be eligible to receive leave from the sick leave bank for an approved leave of absence for reasons other than an unplanned personal illness, injury, disability, or quarantine.
10. Every request for leave from the sick leave bank shall be accompanied by a written statement signed by a physician confirming the existence and cause of the employee's illness, injury, disability, or quarantine and the expected recovery period. The Town Administrator, in his sole discretion, may order an independent medical evaluation by a physician of its choosing.
11. No employee shall receive more than 160 hours of sick bank leave per incident.
12. No leave benefits will be granted if the sick leave bank is depleted of hours.
13. Prior to returning to work following use of sick leave bank leave, an employee shall be required to submit a copy of his/her job description and a work capacity form to his/her treating physician, who must complete the Work Capacity Form and indicate that he/she has reviewed the job description by checking the appropriate box.

## **F. Vacation**

All regular full-time and permanent part-time benefits eligible employees shall earn vacation at their current rate of pay based upon length of service. Vacation is allocated on July 1<sup>st</sup> of each year as advance credit for the coming year, for the convenience of scheduling time off. While vacation time is allocated for the coming year, vacation time is actually earned on a bi-weekly basis; meaning that when an employee leaves the service of

the town, they are not entitled to their entire remaining yearly allocation, only the amount that has been earned on a bi-weekly basis and if in deficit, i.e. has used more vacation than has earned, will have the unearned but used vacation time deducted from his/her final paycheck. Vacation time shall be taken within the fiscal year it is granted, except that up to one week of earned vacation time may be carried forward to September 30<sup>th</sup> of the ensuing year. Allowance for roll-over time greater than one week or beyond September 30<sup>th</sup>, may be granted with approval of the Assistant Town Administrator/HR Director. All other vacation time, not used, shall be forfeited. Full-time employees shall be granted annual vacation leave in accordance with the following Service Length Schedule:

- |                                     |   |                                  |
|-------------------------------------|---|----------------------------------|
| • Date of hire                      | - | 80 hours <i>pro-rated</i>        |
| • 5 <sup>th</sup> Anniversary Date  | - | 40 hours <i>additional award</i> |
| • After 5 years of service          | - | 120 hours                        |
| • 10 <sup>th</sup> Anniversary Date | - | 40 hours <i>additional award</i> |
| • After 10 years of service         | - | 160 hours                        |

Permanent, part-time, employees will receive vacation pay pro-rated based on the number of hours scheduled each work week as an annual average. Years of service are credited in full, regardless of number of hours worked.

All vacation use under this clause must be approved by the Department Head. Vacations shall be granted by the Department Heads at such time as, in their opinion, will cause the least interference with the performance of the regular work of the department within reason, with department heads informing employees of any vacation “blackout dates” as far in advance as possible. So far as practicable, first choice of vacation dates shall be granted to employees based on their length of employment with the Town.

Whenever the employment of any person, subject to the provisions of this policy, is terminated during the year due to layoff, resignation, retirement, or death, without the employee having taken all vacation to which he/she is entitled, the employee or his/her estate will receive compensation for any earned, unused vacation time, pro-rated from the previous July 1<sup>st</sup>.

Illness suffered during an employee's scheduled vacation will be considered vacation time rather than paid sick time. However, if hospitalization or confinement is required, paid sick time may be substituted for vacation time if the provisions of the sick leave are satisfied and the vacation time rescheduled. If leave for bereavement purposes during vacation time becomes necessary then bereavement leave may be substituted as provided in these policies.

Because the purpose of a vacation is rest and relaxation, no additional salary shall be paid to an employee in lieu of vacation time without approval of the Town Administrator.

Vacation time shall be based upon the start date in a benefitted position. For purposes of computing vacation time, employees who leave the Town's service and are later reinstated, shall be considered new employees except as covered in the lay-off provisions.

Observed holidays established by these policies falling within a vacation shall be considered holiday time not vacation time.

## **G. Holidays**

All holiday pay is paid at an employee's regular daily rate. The following are Massachusetts Legal Holidays:

- New Year's Day
- Martin Luther King, Jr. Day
- President's Day
- Patriots' Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day
- Christmas Day

In Massachusetts, holidays falling on Sunday are celebrated on Monday and holidays falling on Saturday are celebrated on Friday.

The Town of Middleton acknowledges that federal and state law requires that the town accommodate the religion of its employees. As such, employees will not be penalized for exercising their religious beliefs and with the approval of the employee's supervisor/department head, employees that wish to be absent from work for religious holidays will be able to do so, provided however, that such time off is without compensation. The previously listed holidays are the only paid holidays offered by the Town.

Holiday schedules within Collective Bargaining Agreements supersede this section.

## **H. Personal Days**

In addition to the paid holidays, all regular full-time employees are entitled to two (2) paid personal days granted on an employee's anniversary date the first year and thereafter, personal days will be granted on a fiscal year basis. Personal days cannot be carried over from one fiscal year to the next fiscal year, and they are forfeited when employment ends for any reason. Part-time benefits eligible employees will receive personal days as above, except on a pro-rated basis. Personal days are not paid out upon separation.

## **I. Jury Duty/Court Duty**

A regular, full-time or part-time employee called for jury duty, or to testify as a witness in a matter before a legal tribunal which involves the Town of Middleton (court duty), shall be paid their regular wages in accordance with M.G.L. Chapter 234. Fees received from the court or other sources shall be turned in to the Town. Such paid leave excludes court time as a result of personal activities where the employee is a party to the proceeding.

## **J. Military Leave**

Employees enlisted in the armed services of the United States will receive compensation and leave while in basic training, during annual and monthly training, and when activated for duty in accordance with USERRA regulations and Massachusetts General Laws, Chapter 33, Section 59.

## **K. Bereavement Leave**

Employees shall be paid for three (3) days of bereavement leave for regular scheduled time lost due to a death of an employee's wife or husband, child, mother, father, mother-in-law, father-in-law, brother, sister or such other member of his family living under said employees roof. For special circumstances owing to transportation requirements, the department head may extend bereavement time beyond the date of the funeral. Employees can petition the Town Administrator to use bereavement leave for the loss of relations not listed above.

## **L. Domestic Violence Leave**

The Town of Middleton is committed to the health and safety of its employees and their families. An employee who is a victim of domestic violence or abusive behavior, or whose immediate family member is such a victim, is encouraged to contact the Human Resources Director in confidence about the situation.

G.L. c. 149, s. 52E entitles employees up to fifteen (15) days of leave from work in any twelve (12) month period if an employee, or family member of an employee, is a victim of domestic violence or abuse. The Town of Middleton defines a twelve-month period as a rolling twelve-month period, beginning on the date an employee commences leave. This policy advises employees of their rights in accordance with state law.

In the event of any conflict between the Town of Middleton's Domestic Violence Leave Policy and State law and any applicable regulations, the State law/regulations shall prevail.

"Abusive behavior" includes domestic violence, stalking, sexual assault, and kidnapping.

"Domestic violence" is defined as abuse against an employee or an employee's family member by:

- A current or former spouse;
- A person with whom the employee or family member shares a child in common;
- A person with whom the employee or family member is or was cohabitating;
- A person with whom the employee or family member is related by blood or marriage; or
- A person with whom the employee or family member has or had a dating or engagement relationship.

"Family members" are defined as:

- Persons who are married to one another;
- Persons in a substantive dating or engagement relationship who reside together;
- Persons having a child together; or
- Parents, step-parents, children, step-children, siblings, grandparents, grandchildren and persons in a guardian relationship.

Leave may be taken for any of the following reasons related to being a victim of domestic violence or caring for a family member who is a victim:

- Seek or obtain medical attention, counseling, victim services, or legal services;
- Secure housing;
- Obtain a protective order from a court;
- Appear in court or before a grand jury;
- Meet with a district attorney or other law enforcement official;
- Attend child custody proceedings; or
- Address other issues directly related to the abusive behavior against the employee or a family member of employee.

In the case of abuse of a family member, the employee is not entitled to leave if he or she is the alleged perpetrator.

Notice: Except in cases of imminent danger to the health or safety of an employee (or employee's family member), employees are required to provide the Assistant Town Administrator/HR Director with at least one week advance notice, in writing, of the employee's intent to take domestic violence leave.

In cases of imminent danger, the employee must notify the Assistant Town Administrator/HR Director within three (3) workdays that the leave was taken or is being taken under the Domestic Violence Law. Such notification may be communicated by a family member, counselor, social worker, advocate, member of the clergy, or other professional assisting the employee in addressing the effects of the abusive behavior on the employee or the employee's family member. The employee or authorized individual may communicate the purpose of the leave to the Human Resources Director by telephone, in person, in writing, or by other reasonable means of communication.

The Town of Middleton requires documentation showing that an employee or employee's family member is a victim of domestic violence and that the employee is taking leave consistent with the law and this policy. An employee may satisfy this request by producing any of the following documents within a reasonable period of time, not to exceed thirty (30) days:

- Protective order, order of equitable relief, or other documentation issued by a court as a result of the abusive behavior against the employee or family member;
  - A document under the letterhead of a court, provider, or public agency which the employee attended for the purposes of acquiring assistance as it relates to the abusive behavior against the employee or the employee's family member;
  - A police report or statement of a victim or witness provided to the police;
  - Documentation that the perpetrator of the abusive behavior has: admitted to sufficient facts to be found guilty of, or been convicted of, or adjudicated a juvenile delinquent by reason of, any offense constituting abusive behavior and which is related to the abusive behavior that necessitated the leave;
  - Medical documentation of treatment as a result of the abusive behavior;
  - A sworn statement, signed under the pains and penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other similar professional who has assisted the employee or the employee's family member in addressing the effects of the abusive behavior; or
  - A sworn statement, signed under the pains and penalties of perjury, that the employee or the employee's family member is a victim of abusive behavior.
- 1.) Payment of Wages on Leave - An employee must use any accrued vacation leave, personal leave and sick leave available to him or her during this leave. If all paid leave has been exhausted, unpaid leave may be taken.
  - 2.) Confidentiality of Leave Request - All information provided by the employee concerning a request for leave under this Act shall be kept confidential by the Town

of Middleton. The Town shall not disclose any information related to an employee's request for leave, except to the extent that disclosure is:

- requested or consented to, in writing, by the employee;
- ordered to be released by a court;
- otherwise required by applicable federal or state law;
- required in the course of an investigation authorized by law enforcement; or
- necessary to protect the safety of anyone employed at the workplace.

3.) Return to Work - Employees who take leave pursuant to this Policy 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.

4.) No Retaliation - The Town shall not discharge or in any other way discriminate or retaliate against an employee for exercising his/her rights under this policy, provided that the employee provides qualifying documentation to support his/her leave within thirty (30) days from commencement of the leave. A qualified employee taking leave under this policy shall not lose any benefit accrued prior to the taking of leave and will be restored to the same or equivalent position upon return.

## **M. Heath Insurance**

Most employees meeting the definition of an employee according to Chapter 32B, Section 2 of M. G. L. and working a minimum of twenty hours per week are entitled to join the Town's group health and life insurance programs. The Town will pay 60% of the chosen health insurance plan, and the employee's share shall be deducted from his/her paycheck. Employees must make their choice for health insurance within thirty days of hire or upon a qualifying event. Failure to elect health care coverage within thirty days will result in ineligibility for coverage until the next Open Enrollment Period or until a qualifying event occurs. Eligibility for using the chosen plan takes on the 1<sup>st</sup> day of employment.

If an employee is out of work for more than thirty consecutive days due to unpaid leave of absence, including unpaid disciplinary action or medical leave, the employee will be responsible for payment of 40% of the cost of health insurance. If you fall into any of these categories, you must contact the Treasurer-Collector's office for the amount due and payment.

Former employees and their dependents have rights under the Consolidated Omnibus Budget Reconciliation Act (COBRA) to continue current group health insurance coverage beyond when they would have been eligible under the group's plan. As long as employee enrolls within 60 days of becoming eligible this coverage will protect the employee and their family from discontinuing the employee's health insurance benefits for up to eighteen (18) months. The former employee will be responsible for 100% payment of all insurance premiums.



The Town adopted G.L. c. 32B, § 11B in 1965, which permits coverage for its retirees; however, said retirees, if age eligible may elect coverage through the town, limited to its Medicare plans. The Town contributes 60% of the monthly cost and the remaining 40% is paid by the retiree. The Town adopted G.L. c. 32B, § 9D in 1996, which permits a surviving spouse to continue coverage for him/herself and dependents until the death or remarriage of the spouse, provided that he/she pays 40% of the premium.

For further clarification, please refer to Appendix A: Health Insurance Rule and Regulations.

## **N. Dental Insurance**

Dental insurance is available. The cost is 25% of the premium through payroll deduction. A waiver must be signed if you do not wish to elect dental coverage.

## **O. Accidental Death & Dismemberment and Life Insurance**

Employees working a minimum of twenty hours per week are offered a \$10,000 Life and Accidental Death & Dismemberment policy. The cost of the policy is split 50/50 between the Town and the employee.

## **P. Retirement**

If you are approaching the age of 65, you should contact the Social Security Administration at least three months before your 65<sup>th</sup> birthday to verify if you are eligible for Social Security benefits. Regardless of your age, the Treasurer-Collector's office also must be notified of your approaching retirement so that there will be no lapse in health insurance coverage. If you wish to continue working beyond your 65<sup>th</sup> birthday, you should also contact the Treasurer-Collector's office for an administrative change regarding your health insurance benefits. This change will not affect your coverage.

Employees who work twenty or more hours per week throughout the year (1300 hours per year) must join the Essex Regional Retirement System.

Supplemental Medicare insurance is available to retirees eligible for Medicare A & B coverage; of which Medicare will remain the primary insurer. The Town also contributes 60% of the monthly cost and the remaining 40% is paid by the retiree. 60% of premiums of health insurance is paid by the town for employees wishing to stay on health insurance under 65 years of age. Employees are not required to elect coverage prior to retirement in order to be eligible for coverage at any point in retirement, including coverage for their family and/or spouse.

## **Q. OBRA**

Part-time, seasonal or temporary employee of the Town are required to participate in Omnibus Budget Reconciliation Act of 1990 (OBRA). This is an alternative to Social Security as permitted by the OBRA. OBRA requires that employees not eligible to participate in their

employer's retirement program be placed in Social Security or another program meeting federal requirements. OBRA meets those federal requirements. Part-time employees who are not eligible for retirement benefits must contribute 7.50% of their gross wages to the OBRA plan.

## **R. Deferred Compensation**

For full-time employees and part-time benefits eligible employees, the Town offers deferred compensation in a 457 plan. See the Treasurer/Collector's Office for more details.

## **S. Injured on Duty/Workers Compensation**

Sworn Police and Fire employees are covered under the provisions of M.G.L. Ch. 41 S. 100 and 111F and are entitled to the rights and benefits of these laws. All other employees are covered under the Massachusetts Workers Compensation Law and are entitled to the benefits and provisions of this law. Worker's Compensation law does not provide for payment of lost wages until after five (5) lost days and then it is retroactive to the first day of injury. For on the job injuries that result in lost time less than five days, the employee will be given leave without loss of pay. All injuries shall be reported immediately to the supervisor or department head and proper forms completed to qualify for insurance coverage. Employees may use their accumulated sick or vacation leave to make up the difference between their regular pay and the amount of pay received under Workers' Compensation. In some instances, employees may be charged for the difference in cost of certain benefits deductions as Worker's Compensation payments are made directly to the employee and the earnings from use of accrued sick and vacation leave may not cover the full cost of deductions.

The Form 101 "Employer's First Report of Injury or Fatality" (Mass Division of Industrial Accidents) is specifically required when an employee is injured, or alleges an injury, and is unable to earn full wages for five or more calendar days (not counting Sundays and legal holidays). It is the responsibility of the Town to report an alleged injury, whether or not the Town agrees with the employee's claim.

This form must be filed within seven (7) calendar days (not counting Sundays and legal holidays), from the fifth day of disability.

Once the electronic Form 101 has been completed, three (3) copies should be printed:

- One for the employee
- One for the Town's insurance company
- One for the Town's records

As of the Effective Date of these policies, the Town's medical provider for medical treatment of work-related injuries or pre-placement physical exams is Quadrant Health Strategies, 500 Cummings Center #4350, Beverly, MA 01915.

## **T. Training and Educational Assistance**

The Town considers employee development an integral part of each department head's responsibility. The objective of this policy is to provide each employee with long-term personal growth opportunities and the Town with qualified and promotable individuals. Department Heads may request approval of the Town Administrator to enroll employees in outside seminars and other educational programs designed to meet specific development objectives. All training programs are designed for immediate on-the-job applications and related costs are paid by the town.

## **U. Employee Assistance Program**

The Employee Assistance Program is a CONFIDENTIAL counseling and referral service providing professional help for Work/Life problems, large and small. All employees and members of their household are entitled to call for services 24 hours a day. Caring staff consists of licensed professional counselors with a wide range of experience. Call their national, toll-free number: 800-451-1834. More detailed information is also available in the Town Administrator's office or online:

### ***MIIA Employee Assistance Program:***

[http://www.allonehealth.com/MIIAEAP/Assets/Pdfs/MoreInformation/Employers/Municipal\\_Flyer.pdf](http://www.allonehealth.com/MIIAEAP/Assets/Pdfs/MoreInformation/Employers/Municipal_Flyer.pdf)

### ***MIIA Well-Aware Program ( a wide range of activities designed to promote wellbeing):***

<http://www.emiia.org/well-aware/services-and-programs>

## **Section 9: Classification & Compensation**

### **A. Job Descriptions**

There shall be job descriptions for each position in the Town that describes the duties, authority, and responsibilities characteristic of each position. The job descriptions are descriptive and not restrictive and shall be reviewed regularly to note any significant changes which may have taken place during the year.

### **B. Compensation**

Annually, the Town Administrator shall recommend a pay schedule for all town positions that receive compensation, but are not subject to an employment contract or collective bargaining agreement. Whenever the Town Administrator reviews wages and salaries, he/she shall take into account and give as much weight as deemed desirable to the following:

- 1) The financial policy and economic considerations of the Town

- 2) Rates of pay for like positions in other local Massachusetts towns considered comparable to Middleton
- 3) Rates of pay for like jobs (if any) in commercial and business establishments in the Middleton area
- 4) Other benefits received by Town employees

The Town Administrator may immediately adjust an employee's pay, due to changes in duties, schedule, and/or working conditions, provided that funding for the change is available. Some wage adjustments may require a vote of the Board of Selectmen.

## **C. Fair Labor Standards Act and Massachusetts Wage and Hour Laws**

Middleton follows the Fair Labor Standards Act and Massachusetts Wage and Hour laws as applicable to municipalities.

The Fair Labor Standards Act (FLSA) is a federal law which establishes minimum wage, overtime pay eligibility, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. More information may be found on the poster in your workplace or online here: <https://www.dol.gov/whd/regs/compliance/hrg.htm>.

The Attorney General's Fair Labor Division enforces laws about minimum wage, overtime, payment of wages, sick time, meal breaks, temp workers' protections, domestic workers' protections, recordkeeping, and more. More information may be found on the poster in your workplace or online here: <https://www.mass.gov/wage-and-hour-laws>.

## **D. Break Time**

Employees have a right to at a 30-minute unpaid meal break for each 6 hours worked in a calendar day. If employees choose to take an unpaid meal break, they may extend their daily hours to compensate for this break.

## **E. Overtime**

Payment for overtime shall be in accordance with the terms of the Fair Labor Standards Act of 1938, as amended. If an assignment requires work in excess of forty hours per week, such overtime work must be authorized in advance by the Department Head.

Non-exempt employees shall be paid one and one-half times their regular hourly rate for the hours worked beyond forty in the work week; vacation, personal, sick, and holiday time are included as hours worked.

Supervisory, professional and managerial employees are exempt employees under FLSA and are not eligible for overtime pay. In recognition that the municipal workload often requires an employee to attend work-related activities outside their normal schedule

certain employees may earn "comp time" or "flex time" even if they are not covered under the Fair Labor Standards Act. "Comp time," or "flex time" under these circumstances, is earned at straight time, not at time and a half and is generally for work performed on days not usually scheduled for work – weekends and holidays, for instance. Permission to earn 'comp time' is at the discretion of the Town Administrator.

Earnings for Overtime and Compensatory Time are to be acknowledged on time sheets indicating the date earned and the reason for the added time. Comp Time may be required to be acknowledged on time sheets.

#### **F. Call Back Pay**

Any regular, full-time non-exempt, employee called into work during non-scheduled hours shall be paid hour for hour at one and one-half times the employee's pay rate.

#### **G. Emergency Closing**

In the event that employees may not be able to work due to an emergency closing of a building, employees will not be required to make up the lost time.

#### **H. Pay for Temporary Assignments**

When an employee is temporarily assigned to a position with a higher pay for forty or more consecutive work hours, he/she may be granted a pay increase not to exceed the rate of pay of the higher position for the duration of the temporary assignment.

#### **I. Payroll Period**

Employees are paid on a bi-weekly basis. Direct deposit is required for your payroll check. The Direct Deposit Enrollment Form can be found online or at the Treasurer-Collector's office and is to be completed and signed by the employee to authorize this transaction to the employee's bank account. Physical paychecks shall not be given by the department head to anyone other than the person for whom they are written unless a request is made in writing in advance by the person to whom the check is payable. Paychecks shall not be distributed prior to the date and hour authorized by the Treasurer unless for extenuating circumstances and approval by the appointing authority. No payroll deductions other than legally required deductions will be made from an employee's paycheck without the employee's written approval.

### **Section 10: Reimbursements**

The Town has adopted a travel reimbursement policy available in Appendix E. Other reimbursements shall be made, if appropriate. Generally, allowed reimbursable expenses are those that employees must incur as a result of completing their normally assigned duties and responsibilities for the Town, including conferences, meetings and seminars, and shall be conducted in the most reasonable, cost-efficient manner possible.

Reimbursements should be made only for charges reasonably needed for the conduct of Town business and not for the purpose of personal convenience. Liquor is not a reimbursable expense under any circumstances.

#### Procedures to Request Reimbursement

1. An original itemized receipt, invoice or bill is required.
2. The invoice or receipt must state a minimum of the following:
  - The provider of the service or goods
  - Dates of service and / or invoice date
  - Itemized list of what was purchased
  - Itemized amount of what is owed
3. It is recognized that in rare circumstances it may not always be possible to obtain such a receipt, e.g., a “fast lane” toll. In that case, the timing, reasonableness and setting of the requested reimbursement will be considered.
4. Reimbursements which are not validated with a receipt will be paid only if deemed reasonable by the Town Accountant, as per M.G.L. Ch. 41 Sec. 56.
5. If it is not clear from the receipt / invoice documentation who actually paid the bill, then additional documentation, such as a charge card statement, will be required.
6. When a credit card payment is being reimbursed:
  - If the receipt displays the last 4 digits of the card used, then submit a legible copy of the credit card showing the name and matching 4 digits;
  - If the receipt does not display the credit card number, then submit a copy of the credit card statement showing the charge to be reimbursed.
7. The Town can only reimburse the individual that can be proven to have actually incurred the expense, i.e., the individual associated with the charge card used.
8. The Town cannot legally, and will not, reimburse or pay sales tax. It can, however, pay meals and hotel/motel excise taxes.
9. Reimbursement requests shall be made via a timely, at least monthly, submitted signed voucher form that contains:
  - Authorized signature (dept. head or majority of the related board)
  - Employee number to be paid
  - Invoice date, Invoice number and Due Date

- Appropriate Accounts & Amounts to charge
- Description field completed for each line item

## **Section 11: Repeal & Amendment**

These policies may be altered, repealed, or amended at the Board of Selectmen's discretion providing, whenever possible, sixty (60) days written notice is provided to employees of changes to any policy.

## **Section 12: Severability**

If any provision of this Policy shall conflict with any Federal or State statute or Wage and Hour Law or regulation applicable to any position, or any other law, it shall be deemed modified by the law or regulation. Each provision of this Policy shall be construed as separate to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.



## **Appendix A: Health Insurance Rules and Regulations**

### **Town of Middleton**

#### *Policies regarding eligibility for health insurance benefits*

The following rules and regulations are adopted by the Town of Middleton pursuant to M.G.L. Chapter 32B, Section 14 and any other applicable provision of the laws of the Commonwealth of Massachusetts or the United States. The Middleton Board of Selectmen, as the appropriate public authority, is the source of final appeal within this municipal jurisdiction for the rules contained herein and on behalf of the Town of Middleton and its employees. In the event of a conflict between these rules and regulations and any applicable State or Federal law, the provisions of such law shall control. In the event of a conflict between these rules and regulations and any collective bargaining agreement, the provisions of the collective bargaining agreement shall control.

#### **1. Qualification for Health Insurance:**

- A. Employees must be compensated by the Town of Middleton;
- B. Employees must be regularly employed by the town, and generally must work not less than twenty (20) hours per week or 1,040 or more hours in a fifty-two (52) week year;
- C. In the case of layoffs or reduction in personnel due to lack of work or budgetary cutbacks, any employee rehired within one year of the date of separation shall be considered as having uninterrupted service for the purposes of establishing benefit costs upon rehire. An individual rehired following an absence longer than one year will be treated as a newly hired employee subject to all the contributory responsibilities existing for the current period of employment;
- D. Temporary employees and intermittent police officers and firefighters, generally, do not qualify for plan participation;

#### **2. Grant employees or employees of regional collaborations paid by third party sources:**

- A. Grant employees and employees whose compensation is funded through payments by third parties may be eligible for benefits. Any grant or fee billing system, under which insurance benefits are an eligible cost, must include sufficient funds to reimburse the town for its share (employer portion) of insurance premiums on behalf of participating employees, and the town must be

reimbursed in full for its payment of these premiums, unless the Town otherwise expressly agrees to self-fund benefits for said employees in accepting said grant;

- B. Supporting grant or contractual documentation must be placed on file at the office of the Town Accountant;
- C. Grant employees must meet the eligibility requirements stipulated above in section 1 (one) in order to participate in the town's benefit plans.

### **3. COBRA qualifying subscribers:**

- A. COBRA, the Consolidated Omnibus Budget Reconciliation Act of 1985, provides temporary continuation of health insurance coverage for former employees. Governed by Title X of federal law, as amended, COBRA defines and governs continuation coverage requirements (including qualifying events that trigger continuation coverage, notice requirements, premium payments, and eligibility) of covered employees and other beneficiaries;

### **4. Retirees health insurance:**

- A. Retirees from the town, namely retired Middleton town or school employees participating in the Essex Regional Retirement System or the Massachusetts Teachers Retirement System, are generally eligible to participate in the town's health insurance program.
- B. Upon separation from town employment, an employee, who is otherwise eligible for and has petitioned for retirement under Chapter 32, may elect to participate in a town sponsored health plan program subject to the terms and underwriting conditions of the town's current insurance providers. An employee may continue coverage. If the retiree qualifies for Medicare upon retirement and choose to enroll in the town's sponsored Medicare plan, they must do so 30 days prior to retirement. The eligible employee, who fails to elect coverage within the prescribed period and fails to comply with the conditions set by the town's current insurance providers, will be deemed to have waived eligibility. Retirees who have moved their retirement earnings into a different retirement system are not eligible for health insurance from the Town of Middleton.

### **5. Medicare eligible retirees:**

- A. The town may, from time to time, request from any retiree, a retiree's spouse or dependents, proof certified by the federal government, of their eligibility or ineligibility for Medicare Part A and Part B coverage;
- B. If retirees do not submit the information required, they shall no longer be eligible for their existing health coverage.
- C. All Medicare eligible retirees who elect coverage through the Town may

subscribe to the Town's Medicare plans.

**6. Spousal health insurance upon death of an employee:**

- A. Upon the death of an active employee or retiree, the surviving spouse may continue the group coverage, including dependent coverage, until remarriage or death of said surviving spouse, in accordance with M.G.L. Chapter 32B § 9D. The surviving spouse must pay 40 of the premium to continue with coverage, said premiums are to be paid to the Town through automatic pension reduction or paid in advance to the Town of Middleton through its health benefits administration process.
- B. Coverage of spouses and dependents following divorce or marital separation is regulated by the provisions set forth in Section 9H of Chapter 32B and the court ordered details of the divorce or separation. In the case of a re-marriage, a former spouse may still receive coverage but a separate plan is required. 100% of the cost of a second plan is to be paid by the employee.
- C. An employee may not elect different insurers for both the employee and his or her spouse when only one of the married individuals is a town employee. Should both spouses be employees, they will be subject to duplicate coverage regulations of the insurance providers, as well as state and federal statutes. In the event statutory restrictions compel different coverage, the town will comply with the appropriate statute and regulations.

**7. Health care premium cost sharing:**

- A. Chapter 32B of the Massachusetts General laws governs the town's contribution to the premium cost for indemnity-type health insurance plans.
  - 1. The town has accepted MGL Chapter 32B, Section 7A, requiring the Town to provide at least 50% of the premium cost. The Board of Selectmen determines the actual contribution percentage of premium apportionment, subject to certain bargaining requirements.
  - 2. The town's current premium contribution is  
  
Employer Share = 60%      Employee Share = 40%.
  - 3. For COBRA qualified plans, the employee or dependent pays the entire premium.

**8. Supplemental insurance plan cost sharing:**

- A. Flexible Spending Account (FSA) is offered to benefit eligible employees of the town. It is a pre-tax mechanism that allows employees to set aside a pre-determined amount of money each year to pay for allowable medical expenses

not otherwise covered by the employee health insurance plans. This voluntary election plan is payroll deducted. Contributions are limited to IRS allowable amounts.

**9. Waiver of coverage:**

- A. Once an employee waives his or her right to the town's group insurance plans, the employee will not be readmitted to the program until an open enrollment period, or upon a qualifying event, and will be subject to the underwriting requirements of the insurance provider.
- B. A new employee, who fails to enroll in any of the town's health and/or life insurance, or other general benefit plan options within 30 days of hire, is deemed to have waived such right of participation until the next open enrollment period or upon a qualifying event. Any employee choosing not to enroll will be asked to acknowledge same by signing a waiver form.

**10. Notice of termination of employment:**

Department Heads shall notify the Treasurer's office at least 15 days prior to the termination of any employee or as soon as practicable. The Treasurer/Collectors office will determine health benefit or COBRA eligibility, as well as portability for other benefit plans, prepare and provide appropriate notices in accordance with law.

**11. Changes in benefit guidelines:**

These policies may be waived, suspended, or rescinded by the Town Administrator provided, however, that the proposed waiver, suspension, or amendment, is allowable.

**12. Public Authority:**

These guidelines are promulgated as rules, pursuant to the authority vested in the Town Administrator by Section 14 of Chapter 32B of the Massachusetts General Law

**Health Insurance Premium Contributions**

In accordance with MGL Chapter 32B, the Town has accepted Chapter 32B, Section 7A and 9A which are local options enabling the town to pay more than 50% of the premium for employees and retirees. The Town of Middleton currently contributes 60% of the premium cost for all active employee and retiree plans.

- Divorce or court ordered continuation plans - Employee or dependent pays in accordance with Chapter 32B, Section 9H and in accordance with the court order.

- A surviving spouse pays 40% of the premium.
- COBRA Qualified Plans – Former employee or Dependent Pays 100%
- Supplemental Plans (Dental) employee pays 25%.

## **Appendix B: Equal Opportunity, Discrimination and Sexual Harassment Policy**

### **I. INTRODUCTION**

It is the Policy of the Town of Middleton to promote a professional and productive workplace in which all employees are treated with dignity and respect. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. Discrimination (including harassment), whether based upon race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, maternity leave, genetic information, active military status, or another basis prohibited under state or federal anti-discrimination statutes, will not be tolerated. To achieve our goal of providing a workplace free from discrimination, we will implement the procedure described below to address any potential inappropriate conduct.

This Policy applies to all employment practices and employment programs sponsored by the Town. This Policy shall apply, but not be limited to, the areas of:

- Recruitment,
- Selection,
- Compensation and benefits,
- Professional development and training,
- Reasonable accommodation for disabilities or religious practices,
- Promotion,
- Transfer,
- Termination,
- Layoff, and
- Other terms and conditions of employment.

This Policy may apply to discrimination (including harassment) that occurs between coworkers that takes place outside the workplace (including, but not limited to, online conduct or conduct utilizing the internet or other electronic media). When the conduct complained of occurs outside of the workplace, the Town may consider the following and other factors in assessing whether the conduct constitutes conduct in violation of this Policy:

- whether the event at which the conduct occurred is linked to the workplace in any way, such as at a Town-sponsored function;
- whether the conduct occurred during work hours;

- the severity of the alleged outside-of-work conduct;
- the work relationship of the complainant and alleged harasser, which includes whether the alleged harasser is a supervisor and whether the alleged harasser and complainant come into contact with one another on the job;
- whether the conduct adversely affected the terms and conditions of the complainant's employment or impacted the complainant's work environment.

Because the Town takes allegations of unlawful discrimination and harassment seriously, we will respond promptly to complaints and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this Policy sets forth our goals of promoting a workplace that is free of discrimination and harassment, the Policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the legal definitions of discrimination or harassment.

## **II. Examples of Prohibited Discriminatory Behaviors**

It is not possible to list all the circumstances that may constitute discrimination in violation of this Policy. Discrimination may take many forms, including both verbal and nonverbal behaviors. Prohibited behavior includes, but is not limited to, the following behaviors connected to someone's membership in one or more groups protected by law as noted in the first paragraph above: slurs or other derogatory comments; sharing demeaning pictures, cartoons, or jokes; demeaning gestures, and; any conduct constituting sexual harassment.

## **III. Definition of Sexual Harassment**

In Massachusetts, the legal definition for sexual harassment is this:

"Sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.



Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment. The victim or complainant as well as the harasser may be male or female. The victim or complainant does not have to be of the opposite sex. The complainant does not have to be a person directly harassed, but may be someone affected by the offensive conduct.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances - whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences, and;
- Discussion of one's sexual activities.

All employees should take special note that, as stated below, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the Town.

#### **IV. Complaints of Sexual Harassment**

If any of our employees believes that they have been subjected to sexual harassment, it is our Policy to provide the employee with the right to file a complaint with the Town. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting the Assistant Town Administrator/HR Director. If you prefer, you may file your complaint with the Town Administrator. These persons are also available to discuss any concerns you may have and to provide information to you about this Policy and our complaint process.

#### **V. Sexual Harassment Investigation**

When we receive the complaint, we will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed sexual harassment. When we have completed our investigation, we will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where appropriate we will also impose disciplinary action.

Given the sensitive nature of complaints of discrimination and/or harassment, all parties and witnesses in a complaint, as well as Department Heads, supervisors, etc. who are aware of a complaint or investigation thereof, are strongly encouraged to maintain this information as confidential, so as not to negatively impact an investigation. All employees are reminded of the provisions of G.L. c. 268A, §23(c)(2), which prohibit a municipal employee or official from improperly disclosing information that is protected from disclosure under the public records law, and acquired by an employee or official in the course of official duties. Section 23 also prohibits a municipal employee or official from using such information to further the employee's/official's personal interest. Violations of the prohibitions of Section 23 may lead to disciplinary action, up to and including termination.

## **VI. Complaints Concerning Other Forms of Discrimination and/or Harassment**

Complaints alleging forms of discrimination and/or harassment, other than sexual harassment, will be processed in accordance with Sections IV and V, above.

## **VII. Retaliation**

Any retaliation against an individual who has formally or informally complained about discrimination (including harassment), or has cooperated with an investigation of a discrimination complaint, is prohibited.

Retaliation can be overt or subtle. Retaliation may include, but is not limited to, treating a complainant or witness differently, more harshly or in a hostile manner; physical interference with movement such as blocking a path; derogatory comments or action which would tend to have a chilling effect on other complainants; sudden investigations of the complainant's private life, or; sudden strict enforcement of work rules. Retaliation in any form will not be tolerated.

## **VIII. Disciplinary Action**

If it is determined that discrimination, harassment, retaliation, or other inappropriate conduct has been committed by one of our employees, the Town will take such action as is

appropriate under the circumstances. Such actions may include: counseling, informal or formal reprimands, written or verbal warnings, suspension, reduction in pay, reduction in duties, transfers, and other formal sanctions, up to and including termination of employment.

## **IX. State and Federal Remedies**

In addition to the above, if you believe you have been subjected to unlawful discrimination and/or harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC – 300 days; MCAD – 300 days).

1. The United States Equal Employment Opportunity Commission  
John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203  
Phone: (800) 669-4000 TTY: (800) 669-6820

2. The Massachusetts Commission Against Discrimination  
Boston Office One Ashburton Place Sixth Floor, Room 601 Boston, MA 02108  
Phone: 617-994-6000 TTY: 617-994-6196

Springfield Office 436 Dwight Street Second Floor, Room 220, Springfield, MA 01103.  
Phone: (413) 739-2145

Worcester Office Worcester City Hall 455 Main Street, Room 100, Worcester, MA 01608.  
Phone: (508) 799-8010 (508) 799-8490 – FAX

New Bedford Office 800 Purchase St., Rm 501 New Bedford, MA 02740.  
Phone: (508) 990-2390 FAX: (508) 990-4260

## **X. Reasonable Accommodation**

Employees seeking reasonable accommodations may submit their request in writing to the Assistant Town Administrator/HR Director, 48 S. Main St. in Middleton, 978-777-3617.

## **XI. Equal Employment Opportunity Statement**

The Town of Middleton will not discriminate in its employment practices, on the basis of race, color, gender, gender identity, national origin, religious creed, ancestry, age, sexual orientation, disability, maternity leave, genetic information, active military status, or another basis prohibited under state or federal anti-discrimination statutes. This shall include such areas as recruitment, selection, compensation and benefits, professional development and training, reasonable accommodation for disabilities or religious practices, promotion, transfer, termination, layoff, and other terms and conditions of employment.

## **Appendix C: Break Time for Nursing Mothers**

Under Federal Law, the Town is required to provide “reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child’s birth each time such employee has need to express the milk.” Employers are also required to provide “a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.”

Under Massachusetts law, there is no limitation to the time period following the birth of a child, and the accommodation for this need is addressed under the reasonableness and hardship standards.

### **Time and Location of Breaks**

Employers are required to provide a reasonable amount of break time to express milk as frequently as needed by the nursing mother. The frequency of breaks needed to express milk as well as the duration of each break will likely vary.

A bathroom, even if private, is not a permissible location under the FLSA or Massachusetts law. The location provided must be functional as a space for expressing breast milk. If the space is not dedicated to the nursing mother’s use, it must be available when needed in order to meet the statutory requirement. A space temporarily created or converted into a space for expressing milk or made available when needed by the nursing mother is sufficient provided that the space is shielded from view, and free from any intrusion from co-workers and the public.

### **Coverage and Compensation**

Unlike federal law, there are no blanket exceptions to coverage. Instead, the reasonableness and hardship standards are to be applied.

### **FLSA Prohibitions on Retaliation**

Section 15(a)(3) of the FLSA states that it is a violation for any person to “discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, or has served or is about to serve on an industry committee.”

Employees are protected regardless of whether the complaint is made orally or in writing. Complaints made to the Wage and Hour Division are protected, and most courts have ruled that internal complaints to an employer are also protected.

Any employee who is “discharged or in any other manner discriminated against” because, for instance, he or she has filed a complaint or cooperated in an investigation, may file a retaliation complaint with the Wage and Hour Division or may file a private cause of action

seeking appropriate remedies including, but not limited to, employment, reinstatement, lost wages and an additional equal amount as liquidated damages.

## **Appendix D: CORI Policy**

**ADOPTED DECEMBER 18, 2018**

### **I. PURPOSE**

The Town of Middleton recognizes the need to ensure a safe environment for those we serve. As one means of providing a safe and credible environment, the Town has implemented this Criminal Offender Record Information (CORI) Policy.

### **II. APPLICABILITY**

This policy is applicable to the criminal history screening of prospective and current employees, contractors, volunteers and interns, vendors, and professional licensing applicants. Where CORI and other criminal history checks may be part of a general background check for employment, volunteer work, or licensing purposes, the following practices and procedures will be followed.

This policy applies to any Town position paid, or unpaid, or contracted that may in the course of its duties have access to vulnerable populations such as the elderly, the disabled, or children or any other position that the Town must or is authorized to perform CORI checks on pursuant to law or regulation.

### **III. CONDUCTING CORI SCREENINGS**

CORI checks will only be conducted as authorized by the DCJIS and MGL c. 6, § 172, and only after a CORI Acknowledgement Form has been completed. With the exception as noted below in Annual Checks, if a new CORI check is to be made on a subject within a year of his/her signing of the CORI Acknowledgement Form, the subject shall be given seventy-two (72) hours' notice that a new CORI check will be conducted. A CORI Acknowledgement Form may be withdrawn by providing the Town with written notice thereof.

#### **Initial CORI Checks**

All prospective and current employees, contractors, volunteers and interns, vendors, and professional licensing applicants of the Town of Middleton will be subject to a CORI screening in accordance with this policy after a conditional offer of employment, volunteer assignment or other municipal relationship has been made.

#### **Annual CORI Checks**

Unless inconsistent with a collective bargaining agreement, the Town may conduct annual CORI checks for those working with vulnerable populations (with reappointment to be conditioned on an updated CORI check):

- All Library Employees or Volunteers
- All Council on Aging Employees or Volunteers

- Recreation Commission Employees or Volunteers who are running programs or classes where children age eighteen (18) or younger will participate
- All Fire and Police Department Employees
- All Emergency Management Team Members and Volunteers
- Any other employee where appropriate

#### **IV. ACCESS TO CORI**

All CORI obtained from the DCJIS is confidential, and access to the information must be limited to those individuals who have a “need to know”. This may include, but not be limited to, hiring managers, staff submitting the CORI requests, and staff charged with processing job applications.

The Town of Middleton must maintain and keep a current list of each individual authorized to have access to, or view, CORI. This list must be updated every six (6) months and is subject to inspection upon request by the DCJIS at any time.

#### **V. CORI TRAINING**

An informed review of a criminal record requires training. Accordingly, all personnel authorized to review or access CORI at the Town of Middleton will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

Additionally, the Town of Middleton is an agency required by MGL c. 6, s. 171A to maintain a CORI Policy, therefore, the Town of Middleton shall ensure that all personnel authorized to conduct criminal history background checks and/or to review CORI information will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

#### **VI. USE OF CRIMINAL HISTORY IN BACKGROUND SCREENING**

CORI used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this policy and any applicable law or regulations.

#### **VII. VERIFYING A SUBJECT'S IDENTITY**

If a criminal record is received from the DCJIS, the information is to be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant.

If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual



authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant.

### **VIII. INQUIRING ABOUT CRIMINAL HISTORY**

In connection with any decision regarding employment, volunteer opportunities, housing, or professional licensing, the subject shall be provided with a copy of the criminal history record, whether obtained from the DCJIS or from any other source, prior to questioning the subject about his or her criminal history. The source(s) of the criminal history record is also to be disclosed to the subject.

### **IX. DETERMINING SUITABILITY**

If a determination is made, based on the information as provided in section VII of this policy, that the criminal record belongs to the subject, and the subject does not dispute the record's accuracy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:

- (a) Relevance of the record to the position sought;
- (b) The nature of the work to be performed;
- (c) Time since the conviction;
- (d) Age of the candidate at the time of the offense;
- (e) Seriousness and specific circumstances of the offense;
- (f) The number of offenses;
- (g) Whether the applicant has pending charges;
- (h) Any relevant evidence of rehabilitation or lack thereof; and
- (i) Any other relevant information, including information submitted by the candidate or requested by the organization.

The applicant is to be notified of the decision and the basis for it in a timely manner.

### **X. ADVERSE DECISIONS BASED ON CORI**

If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check, the applicant will be notified immediately in accordance with 803 CMR 2.18 and/or 2.19, as applicable. The subject shall be provided with a copy of the organization's CORI policy and a copy of the criminal history. The source(s) of the criminal history will also be revealed. The subject will then be provided with an opportunity to dispute the accuracy of the CORI record. Subjects shall also be provided a copy of DCJIS' Information Concerning the Process for Correcting a Criminal Record.

### **XI. SECONDARY DISSEMINATION LOGS**

All CORI obtained from the DCJIS is confidential and can only be disseminated as authorized by law and regulation. A central secondary dissemination log shall be used to record any dissemination of CORI outside this organization, including dissemination at the request of the subject.

## **Appendix E: Travel Reimbursement Policy**

### **I. Purpose**

The purpose of this policy is to establish procedures for authorizing travel and training expenses by Town employees, elected officials, and appointed officials for Town business, and to establish procedures for the reimbursement of the cost of authorized travel and other expenses.

### **II. General Policy**

Training shall be defined as those conferences or sessions that provide certification or learning environment for employees, elected officials and appointed officials pursuant and relevant to their current positions.

It shall be the general policy of the Town to allow board members and employees travel to training sessions, seminars and meetings of professional associations under the following guidelines.

All travel is contingent upon the availability of funds in the proper budgetary account.

The Town expects employees and board members to act responsibly and professionally when incurring and submitting costs. The organization will reimburse employees and board members for reasonable expenses on pre-approved business. This includes, for example, travel fares, accommodations, meals, tips and telephone and fax charges.

### **III. Approval Authority**

The responsibility for keeping within the travel budget of each activity lies with the approving authority. The authorization of all trips involving budgeted funds is as follows:

- A. Town Administrator shall authorize travel and training by the Department Heads and appointed officials. This includes all requests for reimbursement.
- B. The Department Head shall authorize travel by employees within their department. This includes all requests for reimbursement.

### **IV. Procedure**

All travel and training outside of Massachusetts must be authorized in advance. Only those expenses allowed by this policy will be reimbursed.

#### **A. General Procedures**

- 1. Travel request and approvals are to be made on the Travel Request Form which can be obtained on the town's website.

2. Travel Request Forms shall be submitted to the authorizing party (see part III).
3. The authorizing party will sign and return the employee copy to the employee and will forward the signed original to the Town Accountant's office.
4. Upon completion of the trip, the traveler will complete the Travel Expense Report (attachment B) as explained in sections V and VI, and route it back to the authorizing party for approval of the expense reimbursement.
5. Within 10 days of when the travel occurred the Travel Expense Report and all included receipts will then be sent to Accounting to be processed for payment.

## **V. Reimbursable Expense Guidelines**

### **A. Travel/Transportation**

#### *1. Air Travel*

Travelers are encouraged to fly coach class with the lowest available airfare for non-stop travel. The passenger's portion of the airline ticket or the original transportation receipt must be submitted with the traveler's Expense Reimbursement Form; boarding passes alone are not sufficient.

#### *2. Car Rentals*

If a car rental is required, travelers are requested to rent mid-sized or compact vehicles. Travelers will be reimbursed for the fuel costs associated with renting a vehicle. Rental receipts must be submitted with the expense report for reimbursement.

#### *3. Personal Vehicles*

If an employee is using their personal vehicle for travel, they are entitled to request reimbursement for mileage at the IRS standard mileage rate. Charges for gasoline, repairs, depreciation, towing, vehicle maintenance, insurance and other similar expenditures will not be allowed. These are considered operating costs of the vehicle and are covered in the IRS mileage rate.

Mileage to and from the event is to be budgeted and requested for reimbursement by using the Travel Expense Form as a portion of the reimbursement for the total event cost. These costs should not be submitted for reimbursement as part of routine business mileage.

In addition to mileage, the following expenses may be reimbursed:

- Reimbursement for tolls at the established rates. The employee should include receipts or identify the date, location and amount of the toll paid.
- Reasonable and necessary parking charges, including airport parking fees at the long-term reduced parking rate.
- Reasonable valet parking services, if self-park is not available.

#### B. Accommodations

Travelers will be reimbursed for reasonable hotel accommodations. Discounted room rates should be requested at the time of room booking. Travelers are entitled to accommodations that are suitably located and meet reasonable standards for safety, cleanliness and comfort.

Charges caused by failure to cancel guaranteed reservations are not reimbursable. Attending travelers:

- Should ask for the hotel's cancellation policy at the time of booking,
- Notify either the hotel or the organization with whom the reservation was made to cancel a room reservation,
- Remember that cancellation deadlines are based on the local time at the destination hotel, and
- Request and record the cancellation number in case of billing disputes.

#### C. Meals

Per Diem rates for meal and incidentals will be provided; no receipts are required. The per diem rate is established by the IRS and varies by location. Per diem rates will not be paid where other meal arrangements are provided, such as a luncheon included with an event. See <https://www.gsa.gov/portal/content/104877> to calculate the per diem rate for Meals and Incidental Expenses (M&IE) for the destination.

If the employee would rather be reimbursed for all actual meal expenses incurred, itemized meals receipts must be submitted with the Travel Expense Report. Taxes will not be reimbursed. Gratuities not exceeding 20% are eligible for reimbursement. No alcohol purchases will be reimbursed at any time for any circumstances.

If a meal is included in the registration fee for a conference, the overall registration fee will be reimbursed.

#### D. Other Travel Expenses

In-room movies and other charges billed to the traveler's hotel room that have no bearing to the legitimate nature of the travel, are the responsibility of the traveler and will not be reimbursed by the Town.

E. Non Reimbursable Expenses

The following list includes examples of non-reimbursable expenses:

- Personal travel insurance
- Childcare
- Expenses incurred by spouses, children, or relatives
- In-room movies or video games
- Sporting activities, shows, etc.
- Alcoholic beverage purchases
- Sales tax

**VI. Vacation and Spouse Travel**

A. Combining Business and Vacation

If an employee wishes to combine a business trip with a vacation:

1. The proper approval authority (section II) must approve the arrangement
2. The Town will provide only the reimbursement that covers the actual expenses of the business portion of the trip
3. The employee must specify on the Travel Authorization Form the dates of the conference or meeting and the total days of the trip in order to compute vacation time. A Time Off Request form must also be submitted with Payroll to the Treasurer's Office for all time taken as vacation.

B. Travel with Spouse and/or Family

Spouses and/or family members may accompany an employee on official trips. However, the Town will provide reimbursement for only those expenses which the employee would normally incur if traveling alone.

**VII. Travel Expense Report**

The Travel Expense Report should be used in order to receive a reimbursement from the Town. Travelers should submit their expense reports no later than 10 working days after return from the trip. Expense report lodging receipts must reflect no more than single accommodation rates for the employees/officials. The employee will

complete the expense report and attach original bills and receipts to support the following expenditures:

- Lodging
- Transportation costs
- Support of mileage calculation (Google Maps or MapQuest printout)
- Registration fees
- Car rental
- Vehicle Expenditures (parking, tolls)

If the actual expenses considerably exceed the original estimate on the Travel Authorization Request, a justification statement must be attached.

A. Approval and Processing of Travel Expense Reports

1. Reimbursement Requests will be submitted to the authorizing party for approval (section III). After approval by the authorizing party, the Travel Expense Form will be forwarded to the Accounting Department as part of your bi-weekly warrant package.
2. The Town Accountant/CFO will determine that the reimbursement form has been properly approved, that it is mathematically correct, and that the requested reimbursements agree to the submitted receipts are within the limits set forth by this policy. If an error is found in the reimbursement request, the requesting party will be informed and the error will be corrected before payment is made.
3. Before the reimbursement is made, the Accounting Department will determine that there is sufficient unexpended appropriation in the expenditure line item or that an amount sufficient to pay the request has been encumbered.

Any parties submitting or approving a falsified Travel Expense Report form will be subject to disciplinary action.





## Receipt & Review Certification

I, \_\_\_\_\_, employee of the Town of Middleton, do hereby certify that I have received and reviewed the Town's Personnel Policies and Procedures and accompanying materials, and I have been given the opportunity to ask questions and receive clarification where necessary. By signing below, I explicitly acknowledge the expectations of the Town's Anti-Harassment Policy, including Sexual Harassment, contained herein.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

**Returned to the Assistant Town Administrator/HR Director**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signed