

MIDDLETON SELECT BOARD
MEETING AGENDA
FULLER MEADOW ELEMENTARY SCHOOL
NATHAN MEDIA CENTER
143 SOUTH MAIN STREET, MIDDLETON, MA 01949
TUESDAY, AUGUST 13TH, 2024
4:00 PM

This meeting is being recorded

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| 4:00 pm | 1. Business |
| | a. Warrant: 2503 and FP41 |
| | b. Minutes: Open Session, July 30, 2024 |
| | c. Town Administrator Updates and Reports |
| 4:05 pm | 2. Public Comment |
| 4:10 pm | 3. Middleton Municipal Campus Updates |
| | a. Project Updates |
| | b. Acceptance of grants: EVIP Grant for Middleton Municipal Campus ~\$80K |
| 4:15 pm | 4. Update on Administrative Services Coordinator and other organizational needs |
| 4:35 pm | 5. Verizon Licence Recommendation |
| 4:40 pm | 6. Review TEC Proposal – Boston St to Maple through Memorial Hall parcel |
| 4:45 pm | 7. Handbook Update and Vote of Approval |
| 5:00 pm | 8. Ammendment to Town Field Use Policy |
| 5:05 pm | 9. Town Administrator Evaluation |
| 5:15 pm | 10. Discussion on Affordable Homes Act |
| 5:20 pm | 11. Mill Pond Dam Discussion |
| 5:50 pm | 12. Updates & Announcements |

Upcoming Meetings:

September 3rd
September 17th

Regular Select Board Meeting
Regular Select Board Meeting

The Board reserves the right to consider items on the agenda out of order. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

Town of Middleton

Summary of Weekly Bills Payable and Payroll Warrants

Office of the Town Accountant

1a.

Warrant Number: 2503	Warrant Date: August 8, 2024
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Payroll Warrant Total:	\$ 644,201
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Department	Amount	Detail of Expenses
Board of Health	\$12,815	\$6,281 PHE Grant
COA	\$10,387	
Conservation	\$4,438	
Election		
Electric Light	\$73,125	\$3,555 Overtime; \$2,763 Call Out
Fire	\$90,344	\$18,254 Overtime; \$7,407 Part time
Inspections	\$11,553	
Library	\$20,866	
Memorial Hall	\$47,649	
Planning	\$3,669	
Police	\$72,319	\$5,893 Overtime; \$200 Reserves
Police Details	\$4,720	
Public Works	\$40,114	\$4,370 Summer PT; \$2,123 Overtime
Recreation	\$10,483	
Senior Work Off		
School	\$237,403	
Teacher Balloon Pay		
Town Officers	\$4,316	

Bills Payable Warrant Total:	\$ 4,759,835
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Department	Amount	Detail of Expenses
All Payroll Deductions	\$63,745	
Administrator	\$18,361	\$10,506 Attorney Fees; \$7,481 Tri-Town Council Quarterly
Accounting	\$1,040	Miscellaneous Expenses
Assessor	\$575	Miscellaneous Expenses
Clerk	\$8,965	\$6,849 Laserfiche FY25 Renewal
COA	\$997	Miscellaneous Expenses
Conservation	\$0	
DPW	\$100,261	\$40,696 Peabody St Bridge; \$24,126 Street Striping; \$15,860 Waste Disposal
Fire	\$15,775	\$5,972 Equipment Repair/Maintenance; \$2,329 Clothing
Health Director	\$1,985	\$1,329 PEH Grant Expenses
Inspections	\$189	Miscellaneous Expenses
IT	\$55,282	\$23,400 Citizenserve FY25 Renewal; \$17,200 Printer/Laptop Replacement
Library	\$0	
MELD	\$649,940	\$595,222 Purchase Power
Planning	\$0	
Police	\$20,781	\$11,595 Upgrade Handguns (ATM); \$3,600 Training; \$3,569 Clothing
Recreation	\$846	Park Program Expenses
School	\$60,287	\$15,768 Purchase Computers; \$19,320 IT Annual Subscriptions; \$8,310 Tuition
Treasurer	\$3,758,632	\$2,911,538 Q1 Masco Assessment; \$841,778 Debt Service (HM Construction)
Veterans' Agent	\$2,175	\$2,132 Veterans' Aid

Facilities Project Warrant #FP41 Total:	\$ 1,855,900
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Administrator	\$1,855,900	\$1,781,340 Construction; \$66,500 Project Design
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8/5/2024

MEETING MINUTES
MIDDLETON SELECT BOARD MEETING
FULLER MEADOW SCHOOL, NATHAN MEDIA CENTER
143 SOUTH MAIN STREET, MIDDLETON, MA 01949
July 30, 2024 at 6 PM

1b.

With a quorum present the Chair called the meeting to order at 6 pm.

Select Board present: Rick Kassiotis, Chair; Debbie Carbone, Clerk; Jeff Garber; Kosta Prentakis; Brian Cresta.

Also attending: Justin Sultzbach, Town Administrator; Jackie Bresnahan Assistant Town Administrator; others as noted.

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1. Business

a. Warrant 2502 /July 25, 2024: Payroll: \$ 624,704; Bills Payable: \$ 755,094; FP40: \$ 12,388

The Town Accountant/Finance Director Sarah Wood has reviewed the warrant and requested the Board's approval. Town Administrator Sultzbach provided a brief overview of the warrant presented for approval.

On a motion by Cresta, seconded by Prentakis, the Board voted unanimously to approve Warrant 2502 & FP 40.

b. Minutes: July 9, 2024 OS/ES

On a motion by Prentakis seconded by Garber, the Board voted unanimously by roll call to approve the minutes as presented.

c. Town Administrator Updates & Reports- This report is posted on the Town website.

- As a reminder, tax bills are due Thursday, August 1st
- Congratulations to Brad Swanson for his Mass Association of Assessing Officers award recognizing his "outstanding contributions to the MAAO".
- A zoom meeting will be held with residents that abut Mill Pond to start conversations surrounding the future of the dam. This will be further discussed at your upcoming Tuesday, August 13th Select Board Meeting.
- The developer for Villebridge Middleton has agreed to drop the request for a drive through at the former Angelica's site. The ZBA will be wrapping up the residential and commercial elements of that project at their August 22nd meeting.
- A huge thank you for the Middleton Police Benevolent Association for their sign dedication at Couture Way a few weeks ago.
- Early engineering from Scott Morin has been passed along to Minco to complete the appraisal process for Locust St. I am expecting a full report sometime in late August.
- The Town Administrator has been working with Library Director Loretta Swift-Johnson to kick off the conditions assessment process for the Flint Public Library. This most recently included coordinating the trimming back of trees (thank you DPW Director Goodwin).
- The Building Committee approved the final location for the MELD generator, it will be tucked behind the Public Safety building opposite the communications tower.

2. Public Comment

Trever Currier, Vice Chair Masconomet School Committee & Middleton Representative, gave a brief update on capital projects at Masco including repairs done in preparation for school, and improvements on the fields. He reviewed upcoming meeting dates, including negotiations.

3. Middleton Municipal Campus Updates- Owners Project Manager, Brian Laroche, PCA360

a. Project Updates

- b. Context Amendments 8a, 8b, 9, 10 V.2, 13, 14
- c. Acceptance of Add Alternate #3 in W.T. Rich GMP

B. Laroche referenced a PowerPoint presentation, including site photos, and provided an update on the municipal campus project. Temporary power was recently installed and time laps video is now being recorded and updated weekly on the middleton-mmcc.com website. Blogs will be posted /updated on Instagram & Facebook.

Highpoints of the update have been summarized for the minutes:

- Construction schedule: Site established and foundations wrapping up.
- The steel order is arriving a month earlier than anticipated.
- Removal of unexpected bedrock was covered by the unsuitable soil budget.
- As a sedimental building to the town, photos were taken of the golf club house prior to it being demolished.
- A budget update was a part of the presentation, which showed the overall project budget realized some savings through buyouts; the contingency is a “robust” \$4.7 million and the soft cost contingency has not been used to date and only minimal use of added allowances.

Items requiring Select Board vote:

At the recent Building Committee meeting, it was decided to include Alternate 3, the Gazebo (24' pavilion) at a total cost of \$ 248,000 including sidewalks paving, foundation, electric, etc.; this amount is included in the bidding and the budget. The gazebo is a prefab, manufactured building; B. Laroche will confirm the life expectancy of this building. Native, drought plantings that do not require irrigation will be used but irrigation/spicket is being considered for this area.

Change order 1: Construction Proposed Change Orders (PCO): #11 Builders Risk coverage. Pricing was initially higher than expected. The construction manager obtained a lower quote at a minimal increase to the budget of \$342,000. This will be covered under contingencies and increase the budget to \$58,467,675.

Amendments to Context Architecture – B. Laroche reviewed each amendment and noted some of these were not new but need signatures. J. Sultzbach noted MELD (Middleton Electric Light Department) has offered to split generator related expenses pending a finalized / approved Memorandum Of Agreement (MOU).

On a motion by Cresta, seconded by Carbone, the Board voted unanimously to approve, pursuant to the presentation made this evening (during the meeting) the amendments that were provided in detail, and in addition the acceptance of Alternate #3.

Department Head Update: Veteran Services Director Nathan Stedman, was present to provide an update on the Veteran Service office. He reported on the following:

- The transition from the previous Director K. Wash has been smooth.
- The bi-annual recertification of Chapter 113 beneficiaries is completed for July.
- The PA system is in the process of being updated.
- Veterans and surviving spouses continue to be supported and assisted.
- August 14 there is a meeting of the Patriotic observance committee to discuss services for September 11, Veterans day and Wreaths Across American on December 14.

B. Cresta initiated a discussion on the location observances are held, typically the front lawn of the Flint Library and noted the street noise, and questioned if there have been discussions on holding services at the new municipal complex gazebo & multifunction room? He also questioned if missing names from memorials have been updated.

J. Sultzbach noted there are indications that the new venue is being considered and memorials updated to include the more recent wars. B. Cresta offered to help the Director with planning, and updating the town memorials.

N. Stedman will bring this up at the next meeting.

Draft

Response to Open Meeting Law Complaint pertaining to July 9th, 2024 Select Board meeting

This complaint was regarding the joint meeting with the Library Trustees received July 12. The preference of the Board was to discuss this in open session.

J. Sultzbach identified the items as listed in the complaint.

1. The Select Board did not list candidates to be considered for the open seat in advance, on the agenda
2. The agenda referenced an attached list that was not attached.
3. The agenda was not legally posted on the official posting location.

Legal Counsel assisted with the response: It was not reasonable the chair could anticipate a list of candidates as a member of the public could put their name in for consideration at the meeting; the final list of candidates will be released. Regarding the posting of the website, this will be addressed with the state. It was noted the Town Clerk submitted an email to the Attorney General's Office on January 25, 2018 stating a change from Middleton.org to Middlton.gov; this was not updated on the state's website and will be resubmitted by the town.

B. Cresta suggested in the future the agenda state "potential candidates as of (posting date)".

On a motion by Cresta, seconded by Carbone, the Board voted unanimously **to accept** the complaint received and also designate the Town Administrator to respond accordingly.

On a motion by Cresta, seconded by Prentakis, the Board voted unanimously to direct the Town Administrator and Town Clerk to contact the Attorney General's Office to reiterate, again, the change in the Town's web site (address to .gov) and to include the 2018 notification the town provided to the Attorney General's Office and ask the Attorney General to provide affirmative communication back to the town once that change has been made.

Review & vote on application for a new Common Victualler for Ferncroft Corporate Center, 35 Village Road, Middleton, MA 01949; Manager Angelo Senisis.

A.Senisis was present with Kris Mejias, property manager of Ferncroft Corporate Center. It was noted this café is currently set up for employees and business owners of the building and not the public.

J. Bresnahan recommended the license approval be contingent on the business being in compliance with the Building Commissioner, Fire Department, and Health Department before being issued.

*On a motion by Cresta, seconded by Carbone, the Board voted unanimously **to issue** a Common Victualler for Ferncroft Corporate Center, 35 Village Road, Middleton, Ma with the manager Angelo Senisis **contingent** on the successful approval from the Board of Health, Building and Fire inspections.*

Update from liaison for Masco Working Group - K. Prentakis, liaison for the Masco working Group, referenced a meeting on July 23 with Barbara Jessel of Boxford, Marshall Hook of Topsfield, and Joe MacLean of Masco regarding the \$5 million funding that failed at town meeting for repairs at Masconomet High School.

He summarized the other towns prefer to approve design funds in one vote and wait for the bids before requesting the construction funds.

One suggestion made was for Masco to use stabilization funds to hire a third party to prepare construction costs prior to introducing it to the public. There was a discussion to get all information to the towns at the same time.

Masco's annual goal setting meeting will be in late August/early September; the liaisons will meet prior. K. Prentakis asked for feedback on his email and comments.

B. Cresta noted the process seemed more of the issue than the cost of repairs, and cautioned doing the repairs in phases and presenting separate overrides on the project may cause "voter fatigue" and opined this should be a well-planned single request. Discussion followed on possible scenarios and preferred approaches.

The Board reiterated their interest in a presentation from the Masco leadership team and not just the members of the Committee and have requested this numerous times without response.

A single district wide vote was brought up in this discussion without conclusion but in general the Board did not think this was the best approach for Middleton.

K Prentakis will continue to bring updates to the Board.

Appointments: *Additional information is available on the Town's website*

- a. MBTA Advisory Board (1 open seat)
- b. Scholarship Committee (1 seat, 3 year term): Irene Katrinakis was present and spoke on her interest to serve on the Scholarship Committee.

*On a motion by Cresta, seconded by Garber, the Board voted 4-0-1 to **appoint Irene Katrinakis** to the Scholarship Committee for a term through June 30, 2027 with Prentakis abstaining due to this being a family member.*

Review of Administrative Services Coordinator Position Updates & Announcements

J. Sultzbach reviewed D. Mahoney left the (Administrative) position to work in the Town Clerk's office. The position was posted but minimal number of responses were received and one interview was conducted. He went on to talk about the process taken between himself and J. Bresnahan to update the position to provide flexibility and broaden the scope of work to free up the Town Administrator and Asst. Town Administrator to allow them to work on more pressing matters. J. Sultzbach requested the Board authorize \$5,000 from the Compensation Reserve to supplement FY25 payroll budget for this 19 hour position; there is no change in the grade. The goal is to fill the position by the end of September.

A discussion ensued, including on why this is a part-time position vs. a full time position; it was noted benefit costs for full time person is \$25,000. J. Bresnahan spoke in support of providing benefits to other positions included in the override this years, due to the order of operations as well as potential changes in the future to a full time Town Administrator Assistant & Human Resources Director due to increased responsibilities.

The Board collectively agreed the hours were the reason for the low responses and this position was critical to the Town Administrator office and other departments, especially going into the new facility with the expansion of processes. They supported the hours be increased to full time (32-40 hours) benefited employee, either now or for the next FY, but cautioned this should be considered when filling the position.

J. Sultzbach will prepare options regarding full time hours, wages, benefit for discussion with the Board and repost the position with the increased range change as discussed.

J. Bresnahan made note of other impacts the increased hours would create.

*On a motion by Cresta, seconded by Carbone, the Board voted unanimously, pursuant to the discussion during the meeting, **to change** the Confidential Administrative Assistant to the term Administrative Services Coordinator and provide an up to \$5000 annual increase in the (salary) range while keeping in the same classification schedule as part of the nonunion positions.*

Updates & Announcements

Chair Kassiotis complimented the new town website.

Upcoming Select Board Meetings: August 13 @ 4pm; September 3 & 17

Adjourn: The Board voted unanimously to adjourn at 8:18pm.

Respectfully submitted by

Catherine E. Tinsley

Catherine Tinsley, Recording Secretary

Debbie Carbone, Select Board Clerk

Documents either distributed to the Select Board before the meeting in a packet or at the meeting:

- Warrants
- Minutes – July 9, 2024
- Town Administrator Report
- PCA360 Municipal Project Update 7.24.24
- OML Complaint
- Common Victualler License Application – Ferncroft Corporate Center
- Email – K. Prentakis to Town Administrator RE Masco: Request for Feedback 7.25.24
- Appointment Form - I.K. 7.18.24
- Administrator Assistant Job posting
- Proposed Draft for new Administrative Services Coordinator

3b.

**COMMONWEALTH OF MASSACHUSETTS
AGREEMENT BETWEEN MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND TOWN OF MIDDLETON**

The Massachusetts Electric Vehicle Incentive Program (MassEVIP) Public Access Charging (PAC) program is funded through various sources including, but not limited to, the Climate Protection and Mitigation Expendable Trust (CMT), the Energy Demand Reduction Program Trust, and the Natural Resource Damages Trust. These funds support programs or projects that reduce greenhouse gas emissions to mitigate the impacts of climate change, to support adaptation to the impacts of climate change, reduce energy demand and for the administration of the program.

This Agreement is entered into by the Commonwealth of Massachusetts, acting through MassDEP, and Town of Middleton for the purpose of reducing NOx and greenhouse gas emissions in Massachusetts, and to electrify the Massachusetts transportation network., MassDEP is charged with the implementation of and oversight for the MassEVIP PAC Program. Through MassEVIP PAC, \$85,527.00 shall be allocated to Grantee for the procurement and deployment of 13 Level 2 MassEVIP-funded electric vehicle (EV) charging station(s) (“EV charging station(s)”), 26 ports. The funding consists of:

- An amount not to exceed \$39,474.00 for 12 ports at 99 South Main Street, Middleton, MA; and
- An amount not to exceed \$46,053.00 for 14 ports at 105 South Main Street, Middleton, MA.

Terms and Conditions

1. Agreement Duration/Timeline

- a) Grantee has up to 24 months after the effective date of this Agreement to make the EV charging station(s) operational.
- b) If Grantee wishes to make any changes to the information provided in Grantee's application regarding the EV charging station(s), Grantee shall notify MassDEP in writing and receive written approval from MassDEP prior to execution of any amended purchase agreement with the vendor(s) for the EV charging station(s).
- c) Grantee shall request MassDEP's approval of any extension of the 24 month timeframe by notifying MassDEP in writing at least 7 days prior to the end of the 24 month timeframe if the EV charging station(s) will not be operational within 24 months following the effective date of this Agreement. Grantee shall include documentation in any such request to show the reason for the delay, the efforts made by Grantee to avoid the delay, and a timeline by which the EV charging station(s) will be in service. Grantee's request for an extension will not be deemed granted unless approved in writing by MassDEP.
- d) Grantee shall operate and maintain the EV charging station(s) for a minimum of 3 full consecutive years following the date the EV charging station(s) are operational.

2. Hardware and Location Requirements

- a) Grantee shall install EV charging station(s) that:
 - i. are hard-wired Level 2 EV charging station(s);
 - ii. are UL listed (certified to Underwriters Laboratories, Inc. standards);
 - iii. for AC charging stations only, are Energy Star certified or certifiable in compliance with 225 CMR 9.00, the Massachusetts Appliance Energy-Efficiency Standards, Testing and Certification Program and are listed in the [State Appliance Standards Database](#);
 - iv. can charge EVs produced by multiple manufacturers;
 - v. for charging stations that are equipped to accept payment, enable the payment option for all EV drivers without restrictions based on network membership or subscription (e.g., allow credit card payment without login); and
 - vi. are new installations, and not ordered until after an approval letter is received from MassDEP.
- b) Grantee shall allow practical access to, and use of, EV charging station(s) by the general public for 24 hours per day, 7 days per week, at the location indicated in this Agreement. If the location has some access restrictions, the hours of access can be reduced, but not below a minimum of 12 hours per day, 7 days per week, as documented in writing. Upon request by MassDEP, Grantee shall provide such written documentation. For example, charging station(s) must not be in a parking area otherwise reserved only for specific users.
- c) Grantee shall have evidence of ownership of the location identified in application or evidence that installation is allowed on the property (e.g., written permission of owner and/or pertinent language in lease, license agreement, or easement, etc.), and provide such evidence to MassDEP upon request.
- d) The location at which the EV charging station(s) are installed shall be non-residential.

3. EV Charging Station Costs

- a) The grant amount listed on the first page of this Agreement will cover 100% of the cost of the EV charging station(s), including:
 - i. a console wired into the electrical supply;
 - ii. a cable and connector to plug into the EV;
 - iii. cable management strategy (e.g., coil, retractable, etc.);
 - iv. mounting hardware, either pedestal or wall (Pedestal: hard-wired to a permanent pole or box. Wall: hard-wired to a wall and typically includes a mounting plate.);
 - v. separate payment module; and
 - vi. shipping/freight for covered costs.
 - b) Only for locations where MassEVIP will fund infrastructure installation costs, the grant amount listed on the first page of this Agreement will cover 100% of the cost of the EV charging station(s) up to \$50,000 per address, including the items listed in Paragraph 3(a) above and
 - i. upgrading the electrical supply;
 - ii. construction costs related to installation (including accessible ADA EV parking space); and
 - iii. signage and pavement painting.
 - c) Grantee shall provide funds, either directly from Grantee or another source, to cover the remaining cost of the EV charging station(s), all the installation costs, and operating and maintenance costs for a minimum of 3 full consecutive years after EV charging station(s) is operational.
 - d) Costs not covered include:
 - i. shipping/freight for items not included in Paragraph 3.a) or Paragraph 3.b) above as applicable;
 - ii. land/parking space purchase or lease;
 - iii. software subscription;
 - iv. warranty;
 - v. taxes;
 - vi. internet connection or cell signal;
 - vii. planning or permitting for the project;
 - viii. bollards, curbs, wheel stops, setbacks, bumper guards;
 - ix. electricity consumption and demand charges;
 - x. preventative and corrective maintenance on EV charging station(s); and
 - xi. any other costs not listed in Paragraph 3.a) or Paragraph 3.b) above as applicable.
 - e) Funding from multiple MassDEP EVIP programs cannot be combined for a single EV charging station.
 - f) Funding from MassDEP EVIP programs cannot be combined with grants from the Massachusetts Green Communities Division for a single EV charging station and installation.
 - g) MassEVIP grant combined with funding from other sources shall not exceed 100% of the cost paid for the EV charging station(s).
4. EV Charging Station Parking Requirements
- a) For each port installed, one parking space shall be designated for plug-in EV use only and marked clearly through visible signage, examples of which are provided in Attachment B. Grantee shall actively enforce this requirement. Grantee is encouraged to paint the pavement of the parking area to indicate the parking space is designated for plug-in EVs.

- b) The parking space(s) and EV charging station(s) shall be located such that the connector from each EV charging station can easily reach a plug-in EV parked in the associated parking space.
- c) Starting at the entrance of the parking area, directional signage to the EV charging station location(s) shall be installed.
- d) The EV charging station location(s) shall be designed to protect the EV charging station(s) from physical damage. Such protective measures may include curbs, wheel stops, setbacks, bumper guards, and bollards.
- e) The EV charging station(s) parking space(s) and area around the EV charging station(s) shall be maintained for a minimum of 3 full consecutive years following the date the EV charging station(s) are operational, including, without limitation, painting, signage, snow removal and general cleaning.
- f) Grantees required to provide handicapped parking spaces in their parking area in compliance with the 1991 or 2010 Americans with Disabilities Act (ADA) Architectural Design Standards and/or the rules and regulations of the Massachusetts Architectural Access Board (521 CMR) shall have at least 5% of the site's EV charging spaces, but not less than one such space, be accessible to persons with disabilities. If 5% calculates to a fraction, round the value up to the next whole number. This requirement is per parking area and is based on the total of new and existing EV charging spaces. Accessible EV charging spaces funded by MassDEP may be used by any driver of a plug-in vehicle and shall not be reserved only for persons with disabilities. Items purchased and architectural changes made shall comply with the [Massachusetts Architectural Access Board's \(MAAB\) rules and regulations \(521 CMR\)](#) and/or the [2010 ADA Architectural Design Standards](#). MassDEP has provided guidelines on meeting the MAAB rules & regulations and the ADA standards in the [MassEVIP Public Access Charging Program Requirements](#) document.

5. Payment Requests

Grantee shall submit the *Payment Request Form* no later than 60 days after the date the EV charging station(s) are operational. In general, payment should be requested one time, after the charging station(s) are operational and all required signage and pavement marking is complete, but Grantee may need to submit a Payment Request Form before the charging station(s) are operational due to a Massachusetts State Fiscal Year (FY) deadline. The Massachusetts State FY is from July 1st to June 30th and Grantee shall submit the Payment Request Form no later than July 15th following the end of the FY in which equipment was delivered and/or installation work occurred even if the EV charging station(s) are not yet operational. No payment for equipment delivered or installation work completed through June 30 can be made if the payment request is received after July 15. The grant payment will be based on the final invoice(s) for the EV charging station(s) and installation, as applicable, submitted by Grantee. The grant payment may be less than the total grant amount listed on page 1 of this Agreement and will not exceed the per street address grant amount listed on page 1 of this Agreement. MassDEP reserves the right to refuse payment if Grantee fails to submit timely documentation. Grantee may submit multiple payment requests if receiving a grant for multiple EV charging stations and the EV charging stations become operational at different times. Information required by *Payment Request Form* includes, without limitation:

- a) the dollar amount that is the subject of the payment request for the EV charging station(s) and infrastructure installation costs, if applicable;

- b) detailed cost invoices for the EV charging station(s) and infrastructure installation costs, if applicable, that are the subject of the Payment Request;
- c) photographs of all installed and operational EV charging station(s) that are the subject of the Payment Request, if applicable;
- d) date(s) when EV charging station(s) were operational, if applicable;
- e) photographs of relevant signage and pavement markings, if applicable; and
- f) address where payment should be mailed.

When a *Payment Request Form* is submitted before an EV charging station is operational, Grantee shall provide photographs of the installed station(s) once operational as well as photographs of the relevant signage and pavement markings. All required photographs shall be submitted within 60 days after the charging station(s) are operational.

Grantee agrees to provide MassDEP with any additional information requested by MassDEP as may be necessary to support a funding request.

If Grantee is subject to state public contracting laws, Grantee shall include with any payment request the following certification, "I hereby certify under the pains and penalties of perjury that Grantee has complied with all laws, regulations and other requirements applicable to the procurement and acquisition of the EV charging station(s) that are the subject of this Payment Request."

6. Promotion of EV Charging Station(s)

- a) Grantee agrees to promote the EV charging station(s) to the general public via various marketing strategies throughout the minimum period of 3 full consecutive years specified in Paragraph 1. Availability of Public Access Charging shall be made known to the general public through various strategies that may include but are not limited to: Ride and Drive events, education on the proper operation of the EV charging station(s), flyers, internal/external newsletters and webpages, etc. Grantee shall provide proof of such promotion to MassDEP upon request.
- b) EV charging station(s) shall be registered on the United States Department of Energy's (DOE) Alternative Fuels Data Center Station Locator http://www.afdc.energy.gov/fuels/electricity_locations.html. Grantees are also encouraged to submit the location to other EV charging websites such as www.PlugShare.com.
- c) Grantee is encouraged to conduct an EV "Ride and Drive" event at its location to provide consumers with the opportunity to test drive EVs and to also demonstrate how EVs function like traditional vehicles, and can reduce oil consumption, pollution, and fuel and maintenance expenses. Grantee is encouraged to utilize the following on-line resource when conducting a Ride and Drive event: <https://driveelectricweek.org/resources.php>.

7. Insurance Coverage for EV Charging Station(s)

Adequate property and casualty insurance coverage for each EV charging station shall be provided by Grantee through third party coverage or self-insurance. Grantee shall provide proof of such coverage to MassDEP upon request.

8. Training on the Operation and Maintenance of EV Charging Station(s)

Upon installation of the EV charging station(s), Grantee agrees to require all pertinent personnel to attend a training session on the operation and maintenance of the equipment.

9. MassDEP Verification of EV Charging Station(s)

Grantee agrees to allow MassDEP access to the EV charging station(s) during normal business hours to verify the installation, maintenance, and use of the EV charging station(s).

10. Data Reporting and Recordkeeping Requirements

For a minimum of 3 full consecutive years after the EV charging station(s) are operational, Grantee shall collect data on the operation, maintenance, and usage, e.g., hours of use, number of sessions, number of unique users, kilowatt hours charged, downtime, and maintenance costs, if available. Upon request by MassDEP and within a reasonable time, Grantee shall prepare and submit such data or records to MassDEP, in a format specified by MassDEP.

11. EV Charging Station(s) and Electrical Infrastructure Maintenance Requirements

Grantee shall maintain the EV charging station(s) and land-based electrical infrastructure in order to provide proper electrical supply for the operation of the EV charging station(s) for the duration of the 3 full consecutive year in-service period. Grantee shall maintain such EV charging station(s) and infrastructure in accordance with the manufacturer's recommended procedures and specifications and agrees that it is responsible for any maintenance and repair work that is not covered under the scope of the manufacturer's warranty. If the electrical infrastructure fails such that proper electrical supply required for the operation of the EV charging station(s) is not provided, Grantee shall contact either the vendor that performed the installation of the EV charging station(s), if such vendor also performed work on the electrical infrastructure, or another vendor/electrician of Grantee's choice. Grantee shall ensure that all necessary repairs to EV charging station(s), electrical infrastructure and electrical supply are completed within 14 calendar days of Grantee having knowledge of failure. Grantee shall keep records of its maintenance efforts and will make those records available to MassDEP upon request.

12. Noncompliance

In the event Grantee fails to comply with any requirements in this Agreement, the Commonwealth of Massachusetts and MassDEP shall, without limitation, have the right to require Grantee to return all or a portion of the CMT Funds, such portion to be calculated *pro rata* based on the remaining portion of the required 3 full consecutive year in-service period.

The provisions of this paragraph shall in no way be construed to limit or prohibit the Commonwealth of Massachusetts or MassDEP from pursuing any other legal or equitable right, remedy, action or claim available under applicable federal or state laws and regulations for the failure of Grantee to meet any of its obligations under this Agreement.

13. Notices, Submissions and Requests

Except as otherwise provided in this Agreement, all notices, submissions, and requests by Grantee shall be sent to MassEVIP.MassDEP@mass.gov.

14. Effective Date

The “Effective Date” of this Agreement is the date MassDEP signs the *Commonwealth of Massachusetts - Standard Contract Form*. The sequence of signing will be Grantee followed by MassDEP.

15. Transfer

Grantee agrees that it may not transfer the EV charging station(s), except as follows. In the event of an unforeseen circumstance that requires Grantee to transfer ownership of one or more EV charging station(s), Grantee may request written pre-approval from MassDEP to transfer such ownership. The decision to approve such a request shall be in MassDEP’s sole and exclusive discretion, and Grantee shall provide MassDEP with all requested information and comply with all conditions imposed by MassDEP in connection with such approval. The Commonwealth of Massachusetts and MassDEP reserve all of their rights, remedies, actions and claims available under state and federal laws and regulations in the event of any inaccurate, misleading or fraudulent information provided by Grantee in connection with a request hereunder.

By accepting the grant funding, Grantee expressly agrees, through the execution of this Agreement, to be bound by the following Terms and Conditions. Grantee agrees that, from time to time as deemed necessary by MassDEP, to effectuate the goals and purposes of MassEVIP, MassDEP and Grantee shall amend this Agreement.

If signing electronically, I understand and agree that I will be held as legally bound, obligated, and responsible for the use of my electronic signature as I would be using my hand-written signature.

IN WITNESS THEREOF, the parties hereby execute this Agreement.

TOWN OF MIDDLETON

By:

Date:

Print Name:

Print Title:

COMMONWEALTH OF MASSACHUSETTS

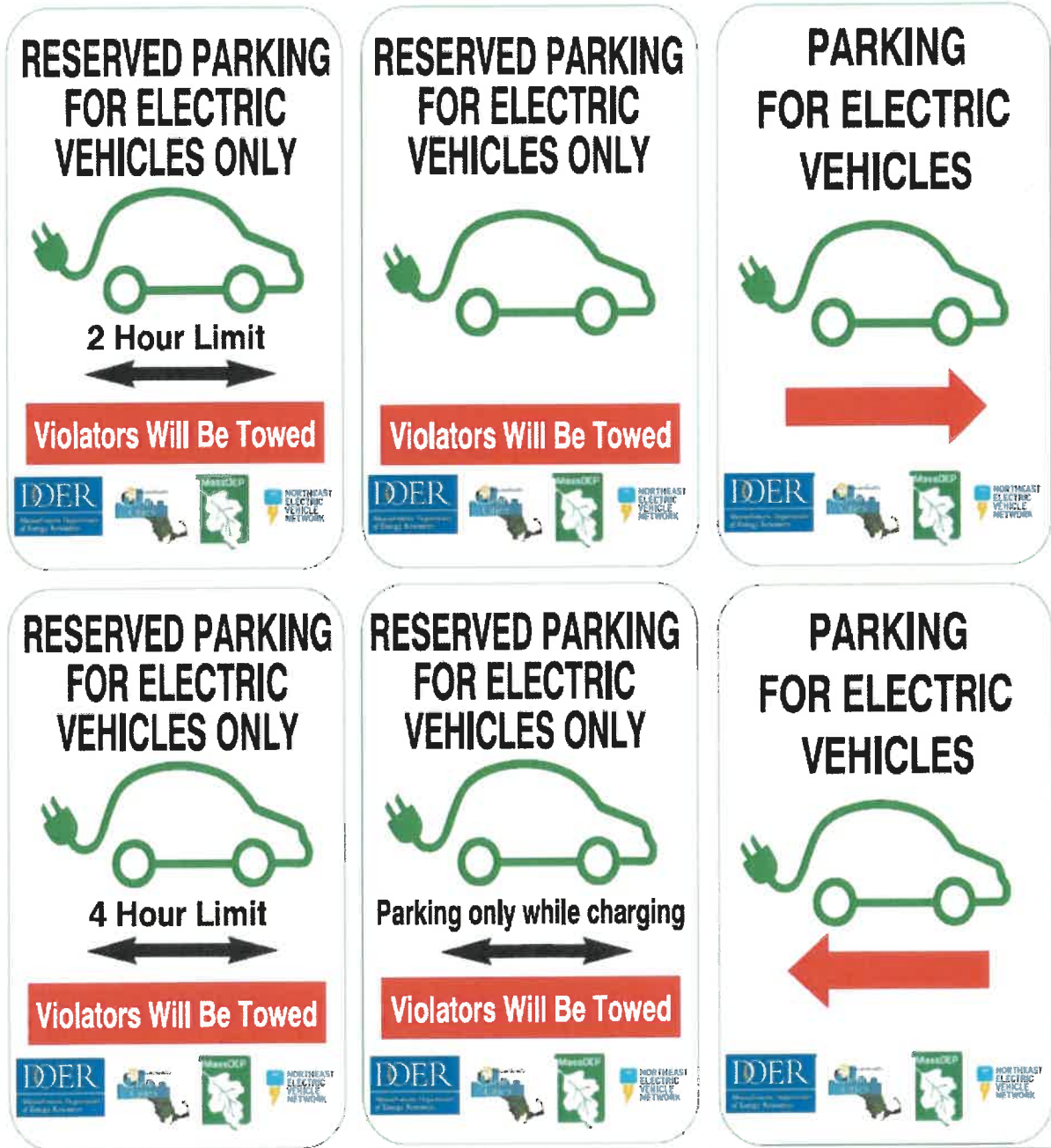
By:

Date:

Glenn Keith, Director, Division of Air and Climate Programs
Massachusetts Department of Environmental Protection

Attachment A

Example Parking Signage



TO: Middleton Select Board (*By Electronic Mail Only*)

FROM: William Hewig III

RE: **EXECUTIVE SUMMARY OF VERIZON RENEWAL LICENESE**

DATE: August 9, 2024

- (1) Sec. 1.18, Gross Revenues: - Includes within the definition of Gross Revenues advertising and home shopping revenues. These inclusions are considered to add approximately 0.5% in revenues to the annual operations grant of 5% GAR provided for in sec. 5.4, as more noted more fully below.
- (2) Sec. 2.3, Term: - 5 years, commencing November 19, 2024 and expiring November 18, 2029. This has been the most Verizon has been willing to agree to since around 2019. The maximum for a renewal license under Massachusetts law is 10 years (MGL c. 166A s. 13).
- (3) Sec. 2.4, Unilateral Termination: - Verizon claims the right to terminate the license after 30 months, and then following 180 days' written notice (i.e., 36 months total). This, also, has been a non-negotiable feature of Verizon licenses for about 3 years.
- (4) Sec. 2.5, Level Playing Field: - If the town grants a cable license to another cable provider, that "can be reasonably demonstrated to materially adversely affect Verizon's competitive position", Verizon may initiate procedures to modify the license to cure the disparity.
- (5) Sec. 3.1, Service Area: - Verizon's service area will cover all residential households for all connections back to 150 feet. Verizon will provide connections for a setback of greater than 150 feet, but will be allowed to recover all actual costs for construction beyond 150 feet.
- (6) Sec. 4.1.3 & 4.1.4 Technical Standards: - Verizon must construct and maintain its system in compliance with FCC technical standards, OSHA, the National Electric Code. and the National Electric Safety Code.
- (7) Article 5, PEG Access Support:-
 - (a) Sub. 5.1, PEG Channels: - Verizon will provide 2 SD PEG channels and may, upon written request, secure an HD PEG channel, for a total of 3 PEG channels. Please note, however, that there may be an additional equipment upgrade cost to subscribers wishing to view PEG in HD.
 - (b) Sub. 5.3, PEG Capital Grant: - Verizon will pay to the town a PEG capital grant in the amount of \$52,950, in 3 equal grants of \$17,650, payable after 45 days, and after the first and second anniversary dates of the license. This amount approximately equates to

Comcast's capital grant in sec. 6.5 of its renewal license, with a 15% added premium applied, Verizon's standard concession for capital grants.

- (c) Sub. 5.4, PEG Operating Grant: - Verizon will pay to the town an annual PEG operating grant of 5% of its annual Gross Revenue, matching the same amount granted by sec. 6.4 of the Comcast 2023 renewal license. These funds are to be used for support of ongoing PEG operations.
- (8) Sec. 6.1, Annual License Fee: - Verizon will pay to the town, in March of each year, an annual "License Fee" of \$.50 per subscriber. (MGL c. 166A s. 9) Unlike the PEG grants in Sec. 5.3 and 5.4 above, this annual funding is not restricted to cable uses, but may be spent for any public purpose.
- (9) Sec. 7.1, Compliance with FCC and Massachusetts Customer Service Standards: - Verizon will be bound by FCC Customer Service Standards (47 CFR s. 76.309 (c); 47 CFR s. 76.1602; 47 CFR s. 76.1603), and Massachusetts Billing and Business Standards (207 CMR s. 10.00 et seq.).
- (10) Sec. 8.1, Open books and Records: - Upon 30 days' written request, Verizon will make available its books and records relating to compliance with its renewal license for inspection by the town.
- (11) Sec. 9.1, Insurance: - Verizon will carry the following insurance for the entire term of its renewal license: CGL coverage of \$ 5M per occurrence for property damage or bodily injury; \$5M general aggregate; Automobile Liability Insurance of \$ 1M; and Workers' Comp in the amount of \$100K. The town will be included as an additional insured on the CGL and automobile policies.
- (12) Sec. 9.2, Indemnification: - Verizon will defend, indemnify and hold harmless the town from and against any claim of injury or damage caused or resulting from the installation, operation or maintenance of its system, following written notice of such claim.
- (13) Sec. 9.3, Performance Bond: - Verizon will maintain a performance bond in the amount of \$50,000 to secure performance of its obligations under the renewal license.
- (14) Article 11, Enforcement: - In the event that the town believes that Verizon is in default of one or more of the terms of the renewal license, the Board is to give Verizon written notice and opportunity to cure, concluding in a public hearing. If following the hearing the default is not cured, or the subject of a corrective action to the satisfaction of the Board, the Board may elect to seek legal or equitable remedies in court, submit a claim against the performance bond, or revoke the license for a substantial non-compliance.

I have reviewed the Verizon renewal license. It represents the product of good faith negotiations between the parties, and in my opinion reasonably meets the town's future community cable-related needs as established by the town, and offers the best financial package obtainable under the circumstances. As such, I recommend it for your approval and execution.

#822373/21500/0126

**CABLE TELEVISION
RENEWAL LICENSE**

**GRANTED TO
VERIZON NEW ENGLAND INC.**

DATED NOVEMBER 19, 2024

**SELECT BOARD
TOWN OF MIDDLETON,
MASSACHUSETTS**

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EXHIBIT

EXHIBIT A – MUNICIPAL BUILDINGS TO BE PROVIDED CABLE SERVICE (SUBJECT TO SECTION 3.3)

THIS CABLE TELEVISION RENEWAL LICENSE AGREEMENT (this “License” or “Agreement”) is entered into by and between the Select Board of the Town of Middleton, as Issuing Authority for the grant of cable television license(s) pursuant to M.G.L. Chapter 166A, and Verizon New England Inc., a corporation duly organized under the applicable laws of the State of New York (the “Licensee”).

WHEREAS, the Issuing Authority is a “franchising authority” in accordance with Title VI (as hereinafter defined) (see 47 U.S.C. § 522(10)) and is authorized to grant one or more nonexclusive cable licenses pursuant to the Massachusetts Cable Law;

WHEREAS, the Issuing Authority granted to Licensee effective as of November 19, 2019 a nonexclusive Cable Television Renewal License to install, maintain, extend, and operate a Cable System in the Town for a term of five (5) years (the “2019 Renewal License”);

WHEREAS, the Licensee has operated a Cable System in accordance with the 2019 Renewal License as of the effective date on its existing Telecommunications Facilities consisting of a Fiber to the Premises Telecommunications Network (“FTTP Network”) in the Town which also transmits Non-Cable Services pursuant to authority granted by M.G.L. c. 166 and Title II, which Non-Cable Services are not subject to the Massachusetts Cable Law or Title VI;

WHEREAS, pursuant to and in accordance with applicable federal and State law, the Issuing Authority undertook a process to determine whether it should renew the 2019 Renewal License and the terms for such a renewal;

WHEREAS, the Issuing Authority has examined the past performance of Licensee and has determined that Licensee is and has been in material compliance with the 2019 Renewal License and applicable law;

WHEREAS, pursuant to and in accordance with applicable federal and State law, the Licensee submitted to the Issuing Authority a proposal to renew the 2019 Renewal License to operate a Cable System in the Town; and

WHEREAS, following good faith negotiations between the parties, the Issuing Authority and Licensee have agreed on the terms for a renewal License under which Licensee will continue to operate its Cable System in the Town.

NOW, THEREFORE, in consideration of the Issuing Authority’s grant of a renewal License to the Licensee, the Licensee’s promise to continue providing Cable Service to residents of the Town pursuant to the terms and conditions set forth herein, and for other good and valuable consideration, the receipt and the adequacy of which are hereby acknowledged,

THE SIGNATORIES HERETO DO HEREBY AGREE AS FOLLOWS:

1. DEFINITIONS

Except as otherwise provided herein, the definitions and word usages set forth in the Communications Act are incorporated herein and shall apply in this License. For the purpose of this License, the following words, terms, phrases and their derivations shall have the meanings given herein. When not inconsistent with the context, the masculine pronoun includes the feminine pronoun, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word shall is always mandatory and not merely directory. In addition, the following definitions shall apply:

1.1. *Access Channel*: A video Channel, which the Licensee shall make available to the Town of Middleton and/or the PEG Access Designee without charge for non-commercial public, educational, or governmental use for the transmission of Video Programming as directed by the Issuing Authority or the PEG Access Designee.

1.2. *Affiliate*: When used in relation to any Person, another Person who owns or controls, is owned or controlled by, or is under common ownership or control with, such Person.

1.3. *Basic Service Tier*: Any service tier which includes the retransmission of local television broadcast signals.

1.4. *Cable Division*: The Cable Television Division of the Massachusetts Department of Telecommunications and Cable.

1.5. *Cable Service or Cable Services*: Shall be defined herein as it is defined under Section 602(6) of the Communications Act, 47 U.S.C. § 522(6), meaning the one-way transmission to Subscribers of Video Programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service.

1.6. *Cable System or System*: Shall be defined herein as it is defined under Section 602(7) of the Communications Act, 47 U.S.C. § 522(7), meaning a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple Subscribers within the Town, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c) of the Communications Act) to the extent such facility is used in the transmission of video programming directly to subscribers unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with Section 653 of the Communications Act; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

1.7. *Channel*: Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(4).

1.8. *CMR*: The Code of Massachusetts Regulations.

1.9. *Commercial Subscriber*: A commercial, non-residential Subscriber.

1.10. *Communications Act*: The Communications Act of 1934, as amended.

1.11. *Complaint*: Shall be defined herein as it is defined by the Cable Division's Order Adopting Revised Form 500 (June 11, 1999), meaning any written or verbal contact with the Licensee in connection with Cable Service in which a Person expresses dissatisfaction with an act, omission, product or service that is (1) within the Licensee's control, and (2) requires a corrective measure on the part of the Licensee.

1.12. *Converter*: A device capable of unscrambling coded video signals distributed over the Cable System.

1.13. *Educational Access Channel*: An Access Channel available for the non-commercial use of the local public schools in the Town and/or the PEG Access Designee.

1.14. *FCC*: The United States Federal Communications Commission, or successor governmental entity thereto.

1.15. *Force Majeure*: Acts of God; acts of public enemies; orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightening; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; civil disturbances; explosions; strikes, labor disturbances or lockouts; unavailability of essential equipment, services and/or materials and/or other matters beyond the control of the Issuing Authority, the Town or the Licensee, and unreasonable work delays.

1.16. *FTTP Network*: The network constructed and operated by the Licensee and having the meaning set forth in the recitals of this License.

1.17. *Government Access Channel*: An Access Channel available for non-commercial use of the Issuing Authority and/or the PEG Access Designee.

1.18. *Gross Revenues*: All revenues derived by the Licensee and/or its Affiliates from the operation of the Cable System to provide Cable Service in the Town, including, without limitation, the following items: fees collected from Subscribers (including Commercial Subscribers) for Cable Services, including, without limitation, Basic and premium Cable Services, and pay-per-view Cable Services; installation, reconnection, downgrade, upgrade and similar charges; revenues received from rentals or sales to Subscribers of Converters, remote controls and other Subscriber equipment used to provide Cable Service over the Cable System; Leased Access Channel programming revenues; revenues that the Licensee receives from home shopping channels as prorated to include such revenue attributable to the Cable System in the Town based

on the number of Subscribers; advertising revenues as prorated to include such revenue attributable to the Cable System in the Town based on the number of Subscribers; and, except as provided below, all fees imposed on the Licensee by this License and applicable law that are passed through and paid by Subscribers (“fee-on-fee”) in accordance with applicable law. For the avoidance of doubt, Gross Revenue shall include the amount of Licensee’s gross advertising revenue (i.e., without netting advertising commissions paid to third parties), calculated in accordance with generally accepted accounting principles. Gross Revenues shall be determined in accordance with generally accepted accounting principles; provided, however, that Gross Revenues shall not include:

1.18.1. Revenues received by any of the Licensee’s Affiliates, except to the extent that such revenues relate directly to the provision of Cable Services over the Cable System in the Town;

1.18.2. Actual bad debts written off by the Licensee in the normal course of its business, provided, however, that bad debt recoveries shall be included in Gross Revenue during the period collected;

1.18.3. Any revenues foregone as a result of (i) refunds, rebates or discounts made to Subscribers, or (ii) the Licensee’s provision of free or reduced cost Cable Services to any Person, including without limitation, employees of the Licensee and public institutions pursuant to M.G.L. Chapter 166A, Section 5(e); provided, however, that if the Licensee receives trades, barbers, services or other items of value instead of cash revenue then such items shall be included in Gross Revenue;

1.18.4. Any revenues wholly generated by services that are defined and classified as Non-Cable Services revenue under federal or State law including, without limitation, revenues received from Telecommunications Services; revenues received from Information Services, and directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement and electronic publishing;

1.18.5. Any revenues of the Licensee or any other Person which is received directly from the sale of merchandise through any Cable Service distributed over the Cable System, notwithstanding that portion of such revenue which represents or can be attributed to a Subscriber fee or a payment for the use of the Cable System for the sale of such merchandise, which portion shall be included in Gross Revenue;

1.18.6. Revenues from the sale of Cable Services on the Cable System to a reseller, when the reseller is required by the Town to pay (and does pay) License Fees to the Town on the resale of the Cable Services;

1.18.7. Any tax, fee or assessment of general applicability imposed by a city, State, federal or other governmental entity and required to be collected from Subscribers by the Licensee and remitted to the taxing entity (including, but not limited to, taxes in the nature of a sales/use tax, communication tax and non-cable license fees);

1.18.8. Revenues from the sales of capital assets or sales of surplus equipment; provided that this exclusion shall not include sales to Subscribers of Converters, remote controls and other Subscriber equipment for the provision of Cable Service over the Cable System; and

1.18.9. Any fees or charges collected from Subscribers for the PEG Grant.

1.19. *High-Definition (HD) PEG Access Channel*: A PEG Access Channel in the high-definition display format for digital television transmissions with video transmitted in a 16:9 aspect ratio with a resolution of 720p or 1080i.

1.20. *Information Services*: Shall be defined herein as it is defined under Section 3 of the Communications Act, 47 U.S.C. § 153(24).

1.21. *Internet Access Service*: Dial-up or broadband access service that enables Subscribers to access the Internet.

1.22. *Issuing Authority*: The Select Board of the Town of Middleton, Massachusetts.

1.23. *Leased Access Channel*: A Channel that the Licensee designates for commercial use pursuant to Section 612 of the Communications Act.

1.24. *License Fee*: The payments to be made by the Licensee to the Town, which shall have the meaning as set forth in Section 622(g) of the Communications Act and Section 9 of M.G.L. Chapter 166A.

1.25. *Licensee*: Verizon New England Inc., and its lawful and permitted successors, assigns and transferees.

1.26. *M.G.L. Chapter 166A*: Chapter 166A of the General Laws of the Commonwealth of Massachusetts.

1.27. *Non-Cable Services*: Any services that do not constitute the provision of Cable Services in the Town including, but not limited to, Information Services and Telecommunications Services.

1.28. *PEG*: Public, educational, and governmental.

1.29. *PEG Access Channel*: An Access Channel made available to the Town and/or the PEG Access Designee for PEG Access Programming pursuant to the terms of this License.

1.30. *PEG Access Designee*: Any entity designated by the Issuing Authority for the purpose of owning and/or operating the equipment and facilities used in the production and/or broadcast of PEG Access Programming for the Issuing Authority, including, but not limited to, any Access Corporation.

1.31. *PEG Access Programming*: Non-commercial Video Programming transmitted on the PEG Access Channel(s) pursuant to the terms of this License, and applicable laws.

1.32. *Person*: Any corporation, partnership, limited partnership, association, trust, organization, joint stock company, other business entity, individual, or governmental entity.

1.33. *Prime Rate*: The prime rate of interest as published in the Wall Street Journal.

1.34. *Public Access Channel*: An Access Channel available for the non-commercial use by the residents in the Town and/or the PEG Access Designee.

1.35. *Public Rights-of-Way*: The surface of, as well as the spaces above and below, any and all public streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, bulkheads, piers, dedicated public utility easements, and public grounds or waters and all other publicly owned real property within or belonging to the Town, now or hereafter existing.

1.36. *Service Area*: The entire existing territorial limits of the Town.

1.37. *Standard Definition (SD) PEG Access Channel*: A PEG Access Channel in the standard definition display format for digital television transmissions with video transmitted in a 4:3 aspect ratio with a resolution of 480i.

1.38. *State*: The Commonwealth of Massachusetts.

1.39. *Subscriber*: Any Person who lawfully receives Cable Service distributed over the Cable System with the Licensee's express permission.

1.40. *Telecommunications Facilities*: The Licensee's existing Telecommunications Services and Information Services facilities, including the FTTP Network.

1.41. *Telecommunication Services*: Shall be defined herein as it is defined under Section 3 of the Communications Act, 47 U.S.C. § 153(46).

1.42. *Title II*: Title II of the Communications Act.

1.43. *Title VI*: Title VI of the Communications Act.

1.44. *Town*: The Town of Middleton, Massachusetts.

1.45. *Video Programming or Programming*: Shall be defined herein as it is defined under Section 602(20) of the Communications Act, 47 U.S.C. § 522(20), meaning programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

1.46. *Video Service Provider or VSP:* Any entity using any portion of the Public Rights-of-Way to provide Video Programming services to multiple subscribers within the territorial boundaries of the Town, for purchase, barter, or free of charge, regardless of the transmission method, facilities or technologies used. A VSP shall include, but is not limited to, any entity that provides Cable Services, multi-channel multipoint distribution services, broadcast satellite services, satellite delivered services, wireless services, and internet-protocol based services within the territorial boundaries of the Town.

2. GRANT OF LICENSE AUTHORITY

2.1. *Grant of Authority:* Subject to the terms and conditions of this License and pursuant to M.G.L. Chapter 166A, the Issuing Authority hereby grants the Licensee the right to own, operate, and maintain a Cable System in, under, over and along the Public Rights-of-Way within the Town and subsequent additions thereto, in order to provide Cable Service. This License grants no authority for the Licensee to use the Public Rights-of-Way within the Town for any other purpose(s) unless otherwise provided herein. The Licensee's FTTP Network is subject to M.G.L. c. 166 and as such is subject to regulation by the Town consistent with that law. The Licensee shall adhere to all applicable local ordinances and lawful regulations of the Town regarding Public Rights-of-Way and public works matters, including rights-of-way management requirements with regard to public safety, aesthetics, pole attachments and other legitimate municipal concerns. Nothing in this Section 2.1 shall be deemed to prohibit the right of the Licensee to challenge the legality of such local bylaws, regulations and requirements, or the right of the Issuing Authority to oppose any such challenge. Consistent with and subject to the Licensee's existing authority to operate in the Public Rights-of-Way, grant of this License does not establish priority for use over other present or future permit holders or the Town's own use of Public Rights-of-Way. Any disputes between the Licensee and other parties regarding use of the Public Rights-of-Way shall be resolved in accordance with applicable law and regulations.

2.2. *Issuing Authority Does Not Regulate Telecommunications:* The parties recognize that the FTTP Network is constructed, operated and maintained as an upgrade to and/or an extension of the Licensee's existing Telecommunications Facilities under Title II and M.G.L. c. 166. In accordance with applicable law(s), the Issuing Authority's regulatory authority under Title VI does not extend to the construction, installation, maintenance or operation of the FTTP Network to the extent the FTTP Network is and/or was constructed, installed, maintained or operated for the purpose of upgrading and/or extending Verizon's existing Telecommunications Facilities for the provision of Non-Cable Services. The Town does not and will not assert jurisdiction over the Licensee's FTTP Network in contravention of applicable federal or State law(s). The Cable System shall be limited to the optical spectrum wavelength(s), bandwidth or future technological capacity that is used for the transmission of Cable Services to Subscribers within the Town and shall not include the Telecommunications Facilities of the Licensee. Nothing in this License shall be construed to prohibit the Licensee from offering any service over the Cable System that is not prohibited by federal or State law provided that any requirements for Town authorization or permitting not inconsistent with federal and State law are satisfied.

2.3. *Term:* The term of this License shall be for a period of five (5) years, commencing on November 19, 2024 (the "Effective Date"), and shall expire at midnight on

November 18, 2029, unless the License is earlier terminated by Licensee pursuant to the terms of Sections 2.4 or 2.5 of this License or revoked by the Issuing Authority as provided herein.

2.4. *Termination:* Notwithstanding any provision herein to the contrary, Licensee may terminate this License upon one hundred and eighty (180) days' written notice to the Issuing Authority. Licensee shall not provide the notice of termination sooner than the beginning of the 31st month following the Effective Date.

2.5. *Modification/Termination Based on VSP Requirements:*

2.5.1. If the Issuing Authority enters into any franchise agreement, license, or grant of authorization to a VSP to provide Video Programming services to residential subscribers in the Town and provided that such terms or conditions can be reasonably demonstrated to materially and adversely affect Verizon's competitive position relative to any VSP that has entered an agreement, etc. that is deemed materially less burdensome, Licensee and the Issuing Authority shall, within sixty (60) days of the Issuing Authority's receipt of Licensee's written notice, commence negotiations to modify this License to create reasonable competitive equity between Licensee and such other VSP. Any modification of the License pursuant to the terms of this Section shall not trigger the requirements of 207 CMR § 3.07.

2.5.2. In the event the parties do not reach mutually acceptable agreement on a modification requested by Licensee, Licensee shall, at any time and in its sole discretion, have the option of exercising any of the following actions:

a. commencing license renewal proceedings in accordance with 47 U.S.C. §546 with the License term being accelerated, thus being deemed to expire thirty-six (36) months from the date of Licensee's written notice to seek relief hereunder;

b. terminating the License within three (3) years from written notice to the Issuing Authority;

c. if agreed by both parties, submitting the matter to commercial arbitration by a mutually-selected arbitrator in accordance with the rules of the American Arbitration Association;

d. submitting the matter to mediation by a mutually-acceptable mediator; or

e. submitting the matter to the Cable Division of the Massachusetts Department of Telecommunications and Cable.

2.5.3. The PEG Grant and PEG Access Support, as provided in Sections 5.3 and 5.4, will not be subject to modification under this Section 2.5. PEG Grant and PEG Access Support payments under this License shall be modified in accordance with the terms and conditions set forth in Sections 5.3 and 5.4 hereunder.

2.6. *Grant Not Exclusive:* This License and the rights granted herein to use and occupy the Public Rights-of-Way to provide Cable Services shall not be exclusive, and the Issuing Authority reserves the right to grant other licenses for similar uses or for other uses of the Public Rights-of-Way, or any portions thereof, to any Person, or to make any such use itself, at any time during the term of this License. The issuance of additional cable license(s) shall be subject to applicable federal laws, M.G.L. Chapter 166A and applicable regulations promulgated thereunder.

2.7. *License Subject to Applicable Federal and State Law:* This License is subject to and shall be governed by all applicable provisions of federal and State law(s) and regulations as they may be amended, including but not limited to Title VI and M.G.L. Chapter 166A.

2.8. *No Waiver:*

2.8.1. The failure of the Issuing Authority on one or more occasions to exercise a right or to require compliance or performance under this License, M.G.L. Chapter 166A or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by the Issuing Authority, nor to excuse Licensee from complying or performing, unless such right or such compliance or performance has been specifically waived in writing.

2.8.2. The failure of the Licensee on one or more occasions to exercise a right under this License or applicable law, or to require performance under this License, shall not be deemed to constitute a waiver of such right or of performance of this License, nor shall it excuse the Issuing Authority from performance, unless such right or performance has been specifically waived in writing.

2.9. *Construction of License:*

2.9.1. The provisions of this License shall be liberally construed to effectuate their objectives.

2.9.2. Nothing herein shall be construed to limit the scope or applicability of Section 625 of the Communications Act, 47 U.S.C. § 545.

2.10. *Police Powers:* Nothing in this License shall be construed to prohibit the reasonable, necessary and lawful exercise of the Town's police powers, provided that the Town shall not exercise its police powers in a manner that would result in a material alteration of the terms and conditions of this License. Any disputes arising from the Town's exercise of its police powers shall be resolved by a court of competent jurisdiction or by mutual agreement, by mediation or arbitration.

2.11. *Compliance with Federal and State Privacy Laws:* Licensee shall comply with the privacy provisions of Section 631 of the Communications Act and all other applicable federal and State privacy laws and regulations. The parties agree that, during the term hereof, Licensee shall not be subject to any local laws or ordinances which conflict with such applicable federal and/or State privacy laws, or which would impose additional or distinct requirements upon

Licensee with respect to Subscriber privacy other than those which are expressly set forth in applicable federal and/or State privacy laws.

2.12. *Transfer of the License:*

2.12.1. Subject to Section 617 of the Communications Act, M.G.L. Chapter 166A and Section 2.12.2 below, the Licensee shall not transfer this License without the prior consent of the Issuing Authority, provided that such consent shall not be arbitrarily or unreasonably withheld, delayed or conditioned. Such consent shall be given only after a public hearing upon a written application therefore on forms prescribed by the Cable Division and/or the FCC. Subject to applicable law, the Licensee shall submit to the Issuing Authority an original and one (1) copy of the application on FCC Form 394 requesting such transfer request. The Issuing Authority shall have one hundred twenty (120) days, or such other time frame that may be established by applicable law, from the filing of the completed Form 394 to take final action on it. If the Issuing Authority has not taken final action within such one hundred twenty (120) day period, then the application shall be deemed approved, unless said one hundred twenty (120) day period is extended by mutual consent of the parties.

2.12.2. The Licensee shall not be required to obtain the Issuing Authority's consent to transfer this License in connection with any transaction that does not constitute a transfer of control under applicable State laws and regulations, including, without limitation, the following: (i) (A) a transfer of an ownership or other interest in the Licensee to the parent of the Licensee or to another Affiliate of the Licensee; (B) transfer or assignment of this License or control thereof to the parent of the Licensee or to another Affiliate of the Licensee; (C) any action which is the result of a merger of the parent of the Licensee; or (D) any action which is the result of a merger of another Affiliate of the Licensee; or (ii) in connection with a transfer in trust, by mortgage, by other hypothecation, by assignment of any rights, title, or interest of the Licensee in this License or the Cable System in order to secure indebtedness; provided, however, that to the extent that any of the foregoing transactions are determined to constitute a transfer of control pursuant to 207 CMR 4.01, then such transaction shall be subject to the Cable Division's transfer regulations (207 CMR 4.00, et. seq.).

2.12.3. Pursuant to 207 CMR 4.04, as may be amended, and applicable federal law, in considering a request to transfer control of this License, the Issuing Authority may consider only the transferee's management experience, technical expertise, financial capability and legal ability to operate the Cable System under this License, and any other criteria allowable under applicable law and/or regulation.

2.12.4. The consent or approval of the Issuing Authority to a transfer of this License shall not constitute a waiver or release of the rights of the Town under this License.

2.12.5. In the event that this License is transferred, the transferee shall be subject to all of the terms and conditions contained in this License.

3. PROVISION OF CABLE SERVICE

3.1. *Service Area:* Subject to the issuance of all necessary permits by the Town, Licensee shall continue to offer Cable Service to all residential households in the Service Area, except: (A) for periods of Force Majeure; (B) for periods of delay caused by the Town; (C) for periods of delay resulting from Licensee's inability to obtain authority to access rights-of-way in the Service Area; (D) in areas where developments or buildings are subject to claimed exclusive arrangements with other providers; (E) in areas, developments, buildings, or other residential dwelling units that Licensee cannot access under reasonable terms and conditions after good faith negotiation, as determined by Licensee; (F) in areas, developments, buildings, or other residential dwelling units where Licensee is unable to provide Cable Service for technical reasons or which require non-standard facilities which are not available on a commercially reasonable basis including, but not limited to, circumstances where Licensee cannot access the area, development, building, or other residential dwelling unit by using Licensee's existing network pathways and which would thus require the construction of new trunk, feeder, or distribution lines; (G) in areas, developments, buildings, or other residential dwelling units that are not habitable or have not been constructed as of the Effective Date, or (I) where Licensee is unable, after good faith efforts, to make Cable Service available on a commercially reasonable basis.

3.2. *Availability of Cable Service:* The Licensee shall make Cable Service available to all residential dwelling units, and may make Cable Service available to businesses, within the Town in conformance with Section 3.1. In the areas in which the Licensee shall provide Cable Service, the Licensee shall be required to connect, at the Licensee's expense, all residential dwelling units that are within one hundred fifty (150) feet of the Licensee's FTTP Network. The Licensee shall be allowed to recover, from a Subscriber who requests such connection, actual costs incurred for residential dwelling unit connections that exceed one hundred fifty (150) feet and actual costs incurred to connect any non-residential dwelling unit Subscriber.

3.3. *Cable Service to Public Buildings:* In accordance with applicable provisions of the FCC's 2019 Third Report and Order In the Matter of Implementation of Section 621 of the Cable Act (the "621 Order"), within a reasonable period of time following the Effective Date, the Licensee shall provide written notice to the Issuing Authority regarding the manner and process by which the Licensee shall implement the 621 Order's requirements regarding the provision of free or discounted Cable Service to public buildings under a cable license. If there is a final determination or ruling of any agency or court having jurisdiction, after exhaustion of all appeals related thereto, reversing the 621 Order such that the provision of free or discounted Cable Service to public buildings pursuant to a cable franchise should no longer be included in the calculation of franchise fees subject to the five percent (5%) statutory cap under the Communications Act, then, subject to Section 3.1, if requested in writing by the Issuing Authority within sixty (60) days following such ruling, the Licensee shall provide one Cable Service drop, outlet and monthly Basic Service along its activated Cable System route in the Town, at no cost to public schools, police and fire stations, public libraries and other public buildings designated in writing by the Issuing Authority. All such written designations shall include the street address of each building. The current designation of such buildings and their addresses is set forth in Exhibit A. The Licensee shall coordinate the location of each outlet with representatives for each of the buildings receiving service pursuant to this Section 3.2. The parties hereto agree that the exercise

of any conditional obligations set forth in this Section 3.3 shall not constitute a modification or amendment of the License within the meaning of 207 CMR 3.07.

4. SYSTEM FACILITIES

4.1. *System Characteristics:* The Licensee's Cable System shall meet or exceed the following requirements:

4.1.1. The Cable System shall be operated with an initial digital passband of between 50 and 860 MHz.

4.1.2. The Cable System shall be operated to be an active two-way plant for subscriber interaction, if any, required for the selection or use of Cable Service.

4.1.3. The Cable System shall comply with applicable FCC technical standards, as such standards may be amended from time to time.

4.1.4. The Cable System shall conform in all material respects to the following standards to the extent applicable: Occupational Safety and Health Administration regulations, the National Electrical Code and the National Electrical Safety Code.

4.1.5. The Cable System shall be capable of passing through stereo signals to Subscribers.

4.2. *Emergency Alert System:* The Licensee shall comply with the Emergency Alert System ("EAS") requirements of the FCC and applicable State and local EAS Plans in order that emergency messages may be distributed over the Cable System.

4.3. *Parental Control Capability:* The Licensee shall comply with all applicable requirements of federal law governing Subscribers' capability to control the reception of any Channels being received on their television sets.

5. PEG ACCESS SERVICES AND SUPPORT

5.1. *PEG Access Channels:*

5.1.1. The Licensee shall continue to make available to the Issuing Authority and/or the PEG Access Designee, as designated in writing by the Issuing Authority, two (2) SD PEG Access Channels on its Basic Service Tier. In accordance with Section 5.1.2 below, the Issuing Authority may also request one (1) HD PEG Access Channel for a total of three (3) PEG Access Channels.

5.1.2. In addition to the two (2) SD PEG Access Channels referenced above, the Licensee shall make one (1) HD PEG Access Channel available to the Issuing Authority and/or the PEG Access Designee, as designed in writing by the Issuing Authority, as follows: Starting on the Effective Date, the Issuing Authority may make a written request for such an HD PEG Access Channel to the Licensee. Upon receipt of the Issuing Authority's written request, the

Licensee shall make such an HD PEG Access Channel available to the Issuing Authority or the PEG Access Designee within two hundred and seventy (270) days of the Licensee's receipt of such written notice from the Issuing Authority. The Issuing Authority shall include in its written notice a statement of whether the programming on such HD PEG Access Channel shall either be a simulcast of existing SD PEG Access Programming or distinct programming. The Issuing Authority or the PEG Access Designee may subsequently change the programming on the HD PEG Access Channel from an SD PEG Access Channel simulcast in HD to distinct programming, or from distinct programming to an HD simulcast of an existing SD PEG Access Channel, upon one hundred (180) days prior written notice from the Issuing Authority to the Licensee which change shall not occur more than once during the License term. To the extent permitted by law, the Licensee shall be allowed to recover from Subscribers applicable costs incurred to transmit HD PEG Access Programming of any type.

5.1.3. All programming content for the HD PEG Access Channel shall be transmitted to Licensee in HD-SDI format with a resolution of 720p or 1080i. Licensee reserves the right to reassign channel number and location for any or all of the PEG Access Channels at any time during the term. The Issuing Authority expressly acknowledges that an HD PEG Access Channel may not be available at all times during the term of this License on Licensee's Basic Service Tier and that in order to view the HD PEG Access Channel, a Subscriber may be required to upgrade equipment at an additional charge.

5.1.4. The Licensee may carry PEG Access Programming within and outside the Town's jurisdictional boundaries, provided that PEG Access Programming from outside the Town which is carried in the Town shall not be cablecast on the PEG Access Channels made available to the Issuing Authority and/or the PEG Access Designee. If a PEG Access Channel provided under this Article is not being utilized by the Town and/or the PEG Access Designee, the Licensee may utilize such PEG Access Channel by providing at least sixty (60) days advance written notice to the Issuing Authority. In the event that the Town and/or the PEG Access Designee determines to use such PEG Access capacity for PEG Access purposes, the Issuing Authority shall have the right to utilize such PEG Access Channel by providing at least sixty (60) days advance written notice to the Licensee.

5.2. PEG Interconnection and Cablecasting:

5.2.1. The Licensee shall continue to connect to equipment owned by the Town and/or the PEG Access Designee at Flint Library (One South Main Street) (the "Interconnection Site"). The Issuing Authority or, if designated by the Issuing Authority in writing to Licensee, the PEG Access Designee, shall be required to pay Licensee for all costs associated with: (i) any equipment upgrade where the need for the upgrade is initiated by the Issuing Authority or PEG Access Designee; (ii) relocating any connection where the need for relocation is initiated by the Issuing Authority or PEG Access Designee; (iii) re-installing and/or replacing any connection at an existing location where the need for such re-installation and/or replacement is initiated by the Issuing Authority or PEG Access Designee; or (iv) installing any new connection if initiated by the Issuing Authority or PEG Access Designee; provided, however, that Issuing Authority and/or PEG Access Designee responsibility for the foregoing costs is subject to the

Issuing Authority's express written consent, and subject further to Licensee's prior disclosure of such costs and prior consent to same by the Issuing Authority or PEG Access Designee.

5.2.2. The demarcation point between the Licensee's signal processing equipment (which the Licensee shall own, install and maintain) and the Town's PEG equipment shall be at the output of the Town's signal processing equipment at the Interconnection Site. The Town and/or the PEG Access Designee shall be solely responsible for operating its switching equipment and the picture and audio quality of all PEG Access Programming up to the demarcation point and for ensuring all PEG Access Programming is inserted on the appropriate upstream PEG Access Channel. All PEG Access Programming shall be transmitted to the Licensee in baseband, SD-SDI or HD-SDI format with either mono or stereo audio signals, and with signals received by Licensee in stereo cablecast by Licensee in stereo. Notwithstanding the foregoing, the Licensee shall not be obligated to provide the Town or PEG Access Designee with either cablecast equipment and facilities or the personnel responsible for maintaining and operating equipment and facilities on the Town's side of the demarcation point and used to generate or administer any PEG Access Channel signals, except as necessary to implement the Licensee's responsibilities specified herein. The Issuing Authority and the Licensee shall work together in good faith to resolve any connection issues. If the Issuing Authority issues a license to, or renews a license with, a competing VSP, the competing VSP may not connect its system to Licensee's System for the purposes of obtaining PEG Access Programming from the PEG Access Channels transmitted on Licensee's System without Licensee's prior written consent.

5.3. *PEG Capital Grant:*

5.3.1. Licensee shall pay to the Town or the PEG Access Designee a PEG grant to be used for PEG Access Channel capital funding purposes in the total amount of Fifty-Two Thousand Nine Hundred Fifty Dollars (\$52,950.00) (the "PEG Grant"), payable in three (3) equal installments of Seventeen Thousand Six Hundred Fifty Dollars (\$17,650.00) each, due and payable within forty-five (45) days of the Effective Date, and on the first and second (2nd) anniversaries of the Effective Date, respectively. The Issuing Authority and/or PEG Access Designee, as determined by the Issuing Authority, shall own all facilities and equipment purchased with the PEG Grant, and Licensee shall have no obligation to maintain, repair, replace or insure any equipment or facilities purchased with the PEG Grant.

5.3.2. If the Issuing Authority enters into any new or renewed cable license agreement with any other VSP which contains obligations associated with a PEG Grant or other comparable program that are lesser than the obligations set forth above, the Licensee's obligations under this Section shall be reduced, on an annual basis and upon the effective date of said agreement, to an amount equal to the lowest total payment required to be made by any VSP to the Town. The relief available in the event of the foregoing is equitable relief going forward, and the Licensee shall not recover amounts already paid to the Town. Notwithstanding the foregoing, if at any time during the term of this License, any other VSP ceases to provide cash grants to the Town in support of the production of local PEG programming in accordance with the terms of its respective license agreement, then Licensee's PEG Grant obligation shall also cease. The Issuing Authority shall provide notification to Licensee within thirty (30) days of such other VSP's failure to provide a cash grant in accordance with the schedule set forth in such VSP's license agreement

with the Issuing Authority. Equipment, services and other in kind, non-monetary contributions to the Town by such VSP shall not count towards the cash grants referenced in this paragraph.

5.4. *PEG Access Support:*

5.4.1. The Licensee shall provide annual funding to the Issuing Authority for PEG Access Channel operating support or other PEG Access Channel costs and expenses (“PEG Access Support”) in the amount of five percent (5%) of Licensee's annual Gross Revenue, subject to the limitation in Section 6.2; however, if the Town issues or renews any cable licenses after the Effective Date that provide for a higher or lower percentage of PEG Access Support, then the percentage of the Licensee's PEG Access Support payments shall be increased or reduced to match such higher or lower percentage over that same time period. The Issuing Authority shall place Licensee's PEG Access Support payments in a restricted account for cable related purposes in the nature of a grant account and not into the general fund, which account will be under the Issuing Authority's control.

5.4.2. The PEG Access Support payments shall be made no later than forty-five (45) days following the end of each calendar quarter. Licensee shall be allowed to submit or correct any payments that were incorrectly omitted, and shall have the right to offset against future payments any payments that were incorrectly submitted, in connection with the quarterly remittances within ninety (90) days following the close of the calendar year for which such payments were applicable. For purposes of the PEG Access Support payment, the period for determining Gross Revenues shall be the preceding calendar quarter. If Cable Services are provided to Subscribers in conjunction with Non-Cable Services, then the calculation of Gross Revenues shall be adjusted, if needed, to include only the value of the Cable Services billed to Subscribers, as reflected on the books and records of Licensee in accordance with FCC rules, regulations, standards or orders.

5.5. *Recovery of Costs:* To the extent permitted by applicable federal law, the Licensee shall be allowed to recover from Subscribers the costs of the PEG Grant, the PEG Access Support and any other costs, including interconnection costs (to the extent allowable by applicable law(s) and/or regulation(s)), arising from the provision of PEG Access services and to include such costs as separately billed line items on each Subscriber's bill.

5.6. *Late Payments:* In the event that the PEG Grant, the PEG Access Support and/or the License Fee payments is or are not paid on or before the due date set forth in this License for such payments, then interest shall accrue from the due date until the date paid at the rate of two percent (2%) per annum above the Prime Rate, compounded annually.

5.7. *PEG Access Channel Maintenance/Technical Standards/Performance Tests:* The Licensee shall monitor the PEG Access Channels for technical quality consistent with applicable FCC technical standards, as such standards may be amended from time to time, and shall ensure that they are maintained at standards the same as those which apply to the Cable System's commercial channels of similar format and resolution; provided that the Licensee is not responsible for the production quality of PEG Access Programming productions, nor for any deficiencies in the signal that it receives from the Town and/or the PEG Access Designee. Upon

the written request of the Issuing Authority, the Licensee shall make available to the Town a copy of the Licensee's most recent annual performance tests.

5.8. *Listing of PEG Access Channels On Licensee's Electronic Program Guide:* If the Licensee lists PEG Access Channel program content titles on its electronic program guide in any other municipality in the State (other than on a test or trial basis), then it shall, upon written request, discuss in good faith with the Issuing Authority the technical feasibility and commercial reasonability of listing the Town's PEG Access Channel program content titles on the Licensee's electronic program guide; however, the Licensee shall not be required to list the Town's PEG Access Channel program content titles on its electronic program guide.

5.9. *PEG Access Video-On-Demand:* If the Licensee provides any other municipality in the State with PEG Access Programming "video-on-demand" (VOD) (other than on a test or trial basis), it shall, upon written request, discuss in good faith with the Issuing Authority the technical feasibility and commercial reasonability of providing PEG Access Programming VOD in the Town; however, the Licensee shall not be required to provide PEG Access Programming VOD in the Town.

5.10. *Censorship:* The Licensee, the Town and the PEG Access Designee shall comply with applicable laws regarding program censorship or any other control of the content of the PEG Access Programming on the Cable System.

5.11. *PEG Operational Rules:* The Issuing Authority and/or the PEG Access Designee shall establish rules and regulations that require all local producers and users of any of the PEG Access facilities or Channels to assume individual responsibility for any program-based liability including but not limited to liability for copyright infringement or defamation, and to hold the Town and the Licensee harmless for same, subject to applicable Title VI and FCC requirements. The PEG Access Designee shall establish rules and regulations for use of PEG Access facilities consistent with, and as required by, Section 611 of the Communications Act (47 U.S.C. § 531) and this License.

5.12. *Non-Commercial Programming:* The Issuing Authority and/or PEG Access Designee shall not use the PEG Access channels to provide for-profit commercial programming. Nothing in this Section shall prohibit the Issuing Authority and/or PEG Access Designee from having memberships, sponsorships, underwriting or acknowledgements (such as underwriting and acknowledgements accepted by PBS), to the extent not otherwise prohibited by applicable law and regulation.

5.13. *No PEG Access Designee Rights:* The Issuing Authority and the Licensee herein acknowledge and agree that any PEG Access Designee is not a party to this License and that any provisions herein that may affect a PEG Access Designee are not intended to create any rights on behalf of any PEG Access Designee.

6. LICENSE FEES

6.1. *License Fee:* Pursuant to Section 9 of M.G.L. Chapter 166A, the Licensee shall pay to the Town, throughout the term of this License, a license fee equal to fifty cents (\$.50) per Subscriber per year.

6.2. *Maximum License/Franchise Fee Obligation:* Any fee, tax, assessment, grant, contribution of any type (including in-kind) or expenditure paid or incurred by the Licensee under this License and/or under applicable State law in connection with the provision by Licensee of Cable Service in the Service Area is subject to classification as a “franchise fee” and the five percent (5%) cap on such fees in accordance with Sections 622(b) and (g) of the Communications Act (47 U.S.C. § 542) and applicable federal rules and regulations.

6.3. *Payment Information:* In determining the License Fee, the number of Subscribers shall be measured as of December 31st of the preceding calendar year. The License Fee shall be paid no later than March 15th of each year during the term of this License.

6.4. *Limitation on Actions:* The period of limitation for recovery of any payment obligation under this License shall be three (3) years from the date on which payment by the Licensee is due.

6.5. *Re-computation:*

6.5.1. Tender or acceptance of any payment made pursuant to Article 5 and/or 6 herein shall not be construed as an accord that the amount paid is correct, nor shall such acceptance of payment be construed as a release of any claim that the Issuing Authority may have for additional sums, including interest payable under Section 5.6 above and/or pursuant to this Section 6.5. All amounts shall be subject to audit and re-computation by the Issuing Authority pursuant to this Section 6.5.

6.5.2. If the Issuing Authority has reason to believe that any such payment is incorrect, it shall notify the Licensee thereof in writing within ninety (90) business days after receiving such payment. The Licensee shall then have ninety (90) business days after receipt of such notice to provide the Town with additional information documenting the accuracy of such payment. In the event that the Issuing Authority does not reasonably believe that such documentation supports the accuracy of such payment, then the Issuing Authority may conduct an audit of such payment, provided that the Issuing Authority shall be limited to one audit every three years during the term of this License, which audit shall be applicable to the previous three (3) year period in accordance with Section 6.4 above. If, after such audit and re-computation, the Issuing Authority determines that an additional fee is owed to the Town, then the Licensee shall be provided with a reasonable opportunity to review the results of such audit and to dispute any audit results, and shall pay any such undisputed amounts within thirty (30) business days after completion of such review, together with any applicable late charges calculated pursuant to Section 5.6 above. Any auditor employed by the Issuing Authority shall not be compensated on a success-based formula (e.g., payment based on a percentage of underpayment, if any).

6.6. *Method of Payment:* All License Fee payments by the Licensee to the Town pursuant to this License shall be made payable to the Town and deposited with the Town Treasurer.

6.7. *Other Payment Obligations and Exclusions:* Subject to Section 622(g)(1) of the Communications Act, the License Fee payments shall be in addition to and shall not constitute an offset or credit against any and all taxes or other fees or charges of general applicability which the Licensee or any Affiliate shall be required to pay to the Town, or to any State or federal agency or authority, as required herein or by law; the payment of said taxes, fees or charges shall not constitute a credit or offset against the License Fee payments herein.

6.8. *Affiliates Use of System:* Use of the Cable System by any Affiliates of the Licensee shall be in compliance with applicable State and/or federal laws.

7. CUSTOMER SERVICE

7.1. *Standards:* The Licensee shall comply with the FCC's cable television customer service and notice regulations codified at 47 C.F.R. § 76.309(c), 47 C.F.R. § 76.1602, and 47 C.F.R. § 76.1603, as amended, and the billing and termination of service provisions contained in 207 CMR § 10.00, as amended; provided, however, that Licensee may satisfy the requirements of 47 C.F.R. § 76.309(c)(1)(v) through its website. Measurement of the telephone availability standards in 47 C.F.R. § 76.309(c)(1)(ii) shall include all calls received by the Licensee at all call centers receiving calls from Subscribers, whether they are answered by a live representative, by an automated attendant, or abandoned after 30 seconds of call waiting.

7.2. *Denial of Service:* Nothing in these standards shall limit the right of the Licensee to deny Cable Service for non-payment of previously provided Cable Services, refusal to pay any required deposit, theft of Cable Service, damage to the Licensee's equipment, abusive and/or threatening behavior toward the Licensee's employees or representatives, or refusal to provide credit history information or refusal to allow the Licensee to validate the identity, credit history and credit worthiness via an external credit agency, or failure to abide by Licensee's terms and conditions of service.

7.3. *Outage Credits:* In the event that all Cable Service is interrupted for twenty-four (24) or more hours, Licensee will grant affected Subscribers a pro rata credit or rebate.

8. REPORTS AND RECORDS

8.1. *Open Books and Records:* Upon at least thirty (30) business days written notice to the Licensee, the Issuing Authority shall have the right to inspect Licensee's books and records pertaining to the Licensee's provision of Cable Service in the Town as are reasonably necessary to ensure compliance with the terms of this License at an office of Licensee during Licensee's regular business hours and on a non-disruptive basis. Such notice shall specifically reference the section or subsection of this License which is under review, so that Licensee may organize the necessary books and records for appropriate access by the Issuing Authority. Licensee shall not be required to maintain any books and records for License compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, Licensee

shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature, nor disclose any of its or an Affiliate's books and records not relating to the provision of Cable Service in the Town. The Issuing Authority shall treat any information disclosed by Licensee as confidential and shall only disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof unless required to do so by law. Licensee shall not be required to provide Subscriber information in violation of Section 631 of the Communications Act, 47 U.S.C. § 551.

8.2. *Records Required:* The Licensee shall at all times maintain:

8.2.1. Records of all written Complaints for a period of three (3) years after receipt by the Licensee;

8.2.2. Records of outages for a period of three (3) years after occurrence, indicating date, duration, area, and the number of Subscribers affected, type of outage, and cause;

8.2.3. Records of service calls for repair and maintenance for a period of three (3) years after resolution by the Licensee, indicating the date and time service was required, the date of acknowledgment and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was resolved;

8.2.4. Records of installation/reconnection and requests for service extension for a period of three (3) years after the request was fulfilled by Licensee, indicating the date of request, date of acknowledgment, and the date and time service was extended; and

8.2.5. A map showing the area of coverage for the provisioning of Cable Services.

9. INSURANCE AND INDEMNIFICATION

9.1. *Insurance:*

9.1.1. The Licensee shall maintain in full force and effect, at its own cost and expense, during the term of this License, the following insurance coverage:

9.1.1.1. Commercial General Liability Insurance in the amount of five million dollars (\$5,000,000) per occurrence for property damage and bodily injury and five million dollars (\$5,000,000) general aggregate. Such insurance shall cover the construction, operation and maintenance of the Cable System, and the conduct of the Licensee's Cable Service business in the Town.

9.1.1.2. Automobile Liability Insurance in the amount of one million dollars (\$1,000,000) combined single limit each accident for bodily injury and property damage coverage.

9.1.1.3. Workers' Compensation Insurance meeting all the statutory requirements of the Commonwealth of Massachusetts and Employers' Liability

Insurance in the following amounts: (A) Bodily Injury by Accident: \$100,000; and (B) Bodily Injury by Disease - each employee: \$100,000; \$500,000 disease-policy limit.

9.1.2. The Town shall be included as an additional insured as their interests may appear under this License on the Commercial General Liability Insurance and Automobile Liability Insurance required herein.

9.1.3. Upon receipt of notice from its insurer(s) the Licensee shall provide the Issuing Authority with thirty (30) days' prior written notice of cancellation of any required coverage.

9.1.4. Each of the required insurance policies shall be with insurers qualified to do business in the State of Massachusetts, with an A.M. Best Financial Strength rating of A- or better.

9.1.5. Upon written request, the Licensee shall deliver to the Issuing Authority Certificates of Insurance showing evidence of the required coverage.

9.2. *Indemnification:*

9.2.1. The Licensee shall, at its sole cost and expense, indemnify and hold harmless the Issuing Authority, the Town, its officials, boards, commissions, committees, agents and/or employees against all claims for damage, including without limitation damage to Persons or property, real and personal, due to the actions of the Licensee, its employees, officers or agents arising out of the installation, maintenance and/or operation of the Cable System under this License. Indemnified expenses shall include all reasonable attorneys' fees and costs incurred by the Town up to such time that the Licensee assumes defense of any action hereunder. The Issuing Authority shall give the Licensee written notice of its obligation to indemnify and defend the Issuing Authority within ten (10) business days of receipt of a claim or action pursuant to this section, or such amount of time as may be necessary to avoid entry of a default judgment.

9.2.2. With respect to the Licensee's indemnification obligations set forth in Section 9.2.1, the Licensee shall, at its own expense, provide the defense of any claims brought against the Town by selecting counsel of the Licensee's choice to defend the claim, subject to the consent of the Issuing Authority, which shall not unreasonably be withheld. Nothing herein shall be deemed to prevent the Issuing Authority from cooperating with the Licensee and participating in the defense of any litigation by its own counsel at its own cost and expense, provided however, that after consultation with the Issuing Authority, the Licensee shall have the right to defend, settle or compromise any claim or action arising hereunder, and the Licensee shall have the authority to decide the appropriateness and the amount of any such settlement. In the event that the terms of any such settlement includes the release of the Town and the Issuing Authority does not consent to the terms of any such settlement or compromise, the Licensee shall not settle the claim or action but its obligation to indemnify the Town shall in no event exceed the amount of such settlement.

9.3. *Performance Bond.* The Licensee shall maintain, without charge to the Town, throughout the term of the License a faithful performance bond running to the Town, with

good and sufficient surety licensed to do business in the State in the sum of Fifty Thousand Dollars (\$50,000). Said bond shall be conditioned upon the faithful performance and discharge of all of the obligations imposed by this License. The performance bond shall be effective throughout the term of this License and shall be conditioned that in the event that the Licensee shall fail to comply with any one or more provisions of this License, or to comply with any order, permit or direction of any department, agency, commission, board, division or office of the Town having jurisdiction over its acts, or to pay any claims, liens or taxes due the Town which arise by reason of the construction, upgrade, maintenance and/or operation of the Cable System, the Town shall recover from the surety of such bond all damages suffered by the Town as a result thereof, pursuant to Article 11 below. Said bond shall be a continuing obligation of this License, and thereafter until the Licensee has satisfied all of its obligations to the Town that may have arisen from the grant of the License or from the exercise of any privilege herein granted. In the event that a performance bond provided pursuant to this License is not renewed or cancelled, the Licensee shall provide a new performance bond pursuant to this Section 9.3 within thirty (30) days of such failure to renew or cancellation. Neither cancellation, nor termination nor refusal by the surety to extend the bond, nor the inability of the Licensee to file a replacement bond or replacement security for its obligations under this License, shall constitute a loss to the Town recoverable under the bond. Neither this section, any bond accepted pursuant thereto, or any damages recovered thereunder shall limit the liability of the Licensee under the License. Recourse by the Issuing Authority of remedies available under this Section 9.3 shall not be exclusive of other lawful remedies available to the Town at law and equity.

10. RENEWAL OF LICENSE

The Issuing Authority and the Licensee agree that any proceedings undertaken by the Issuing Authority that relate to the renewal of this License shall be governed by and comply with the provisions of Section 626 of the Communications Act, 47 U.S.C. § 546, and M.G.L. Chapter 166A. The Issuing Authority shall notify the Licensee of any ascertainment proceedings conducted pursuant to Section 626 of the Communications Act, and shall provide the Licensee with a copy of the record of such proceeding.

11. ENFORCEMENT AND TERMINATION OF LICENSE

11.1. *Notice of Violation:* If at any time the Issuing Authority believes that Licensee has not complied with the terms of this License, the Issuing Authority shall informally discuss the matter with the Licensee, however the Issuing Authority reserves the right to inform the Licensee of such non-compliance in writing prior to informal discussions. If such informal discussions do not lead to resolution of the problem in a reasonable time, the Issuing Authority shall then notify Licensee in writing of the exact nature of the alleged noncompliance (for purposes of this Article, the “Noncompliance Notice”).

11.2. *The Licensee’s Right to Cure or Respond:* The Licensee shall have thirty (30) days from receipt of the Noncompliance Notice to: (i) respond in writing to the Issuing Authority, if the Licensee contests (in whole or in part) the assertion of noncompliance; (ii) cure such noncompliance; or (iii) in the event that, by its nature, such noncompliance cannot be cured within such thirty (30) day period, initiate reasonable steps to remedy such noncompliance,

continue such efforts until said noncompliance is cured, and notify the Issuing Authority at no more than twenty-one (21) day intervals as to the Licensee's efforts and progress to remedy such noncompliance. Upon a jointly agreed upon cure of any noncompliance by the Issuing Authority and the Licensee, the Issuing Authority shall provide the Licensee with written confirmation that such cure has been effected.

11.3. *Public Hearing:* In the event that the Licensee fails to respond to the Noncompliance Notice pursuant to the procedures set forth in Section 11.2 above, and if the Issuing Authority seeks to continue its investigation into the alleged noncompliance, then the Issuing Authority shall schedule a public hearing. The Issuing Authority shall provide the Licensee at least thirty (30) days prior written notice of such public hearing, which will specify the time, place and purpose of such public hearing and whether revocation of this License is a possible consequence. At any designated public hearing where revocation of this License is not a possible consequence, the Licensee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel and to introduce relevant evidence. At any designated public hearing where revocation of this License is a possible consequence, the Licensee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel and to introduce relevant evidence, and shall also have the right to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Issuing Authority, to compel the testimony of other persons as permitted by law, and to question and/or cross examine witnesses. A complete record shall be made of such hearing. Within thirty (30) days of the close of the hearing, the Issuing Authority shall issue a written determination of its findings.

11.4. *Enforcement:* In the event the Issuing Authority, after the public hearing set forth in Section 11.3 above, determines that the Licensee is in default of any provision of this License, the Issuing Authority may:

11.4.1. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages;

11.4.2. Commence an action at law for monetary damages or seek other equitable relief;

11.4.3. Submit a claim against an appropriate part of the performance bond pursuant to Section 9.3 above;

11.4.4. In the case of a substantial noncompliance of a material provision of this License, seek to revoke this License in accordance with Section 11.5; or

11.4.5. Invoke any other lawful remedy available to the Town.

11.5. *Revocation:* In the event that the Issuing Authority determines that it will revoke this License pursuant to Section 11.4 above, the Licensee may appeal such written determination of the Issuing Authority to an appropriate court or to the Cable Division, which shall have the power to review the decision of the Issuing Authority consistent with applicable law and

regulation. The Licensee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of the Licensee's receipt of the written determination of the Issuing Authority.

11.6. The Issuing Authority may, at its sole discretion, take any lawful action that it deems appropriate to enforce the Issuing Authority's rights under this License in lieu of revocation of this License.

12. MISCELLANEOUS PROVISIONS

12.1. *Actions of Parties:* In any action by the Town or the Licensee that is taken pursuant to the terms of this License, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required by either party under the terms hereof, such approval or consent shall not be unreasonably withheld, delayed or conditioned.

12.2. *Jurisdiction:* Jurisdiction and venue over any dispute, action or suit arising out of this License shall be in a federal or State court of appropriate venue and subject matter jurisdiction located in the State, and the parties hereby agree to be subject to the personal jurisdiction of said court for the resolution of any such dispute.

12.3. *Binding Acceptance:* This License shall bind and benefit the parties hereto and their respective receivers, trustees, successors and assigns.

12.4. *Preemption:* In the event that federal or State law, rules, or regulations preempt a provision or limit the enforceability of a provision of this Agreement, the provision shall be read to be preempted to the extent and for the time, but only to the extent and for the time, required by law. In the event such federal or State law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the Issuing Authority.

12.5. *Force Majeure:* If by reason of Force Majeure, either party is unable in whole or in part to carry out its obligations hereunder, said party shall not be held in violation or default during the continuance of such inability.

12.6. *Acts or Omissions of Affiliates:* During the term of this License, the Licensee shall be liable for the acts or omissions of its Affiliates to the extent arising out of any such Affiliate's operation of the Cable System to provide Cable Services in the Town pursuant to this License.

12.7. *Delivery of Payments:* Licensee may use electronic funds transfer to make any payments to the Town required under this Agreement.

12.8. *Warranties:* Each party hereto warrants, represents and acknowledges to the other party that, as of the Effective Date, such party has the requisite power and authority under

applicable law and its organizational documents, if any, and is authorized and has secured all consents which are required to be obtained as of the Effective Date, to enter into and be legally bound by the terms of this License.

12.9. *Notices:* Unless otherwise expressly stated herein, notices required under this License shall be mailed first class, postage prepaid, to the addressees below. Each party may change its designee by providing written notice to the other party.

Notices to the Licensee shall be mailed to:

Verizon New England Inc.
111 Main Street
6th Floor
White Plains, NY 10601
Attention: Pamela Goldstein, Associate General Counsel

with a copy to:

Verizon
1300 I St. NW
Suite 500 East
Washington, DC 20005
Attention: Tonya Rutherford, VP and Deputy General Counsel

Notices to the Issuing Authority shall be mailed to:

Select Board
Middleton Town Hall
48 South Main Street
Middleton, MA 01949

12.10. *Entire Agreement:* This License and the Exhibit hereto constitute the entire agreement between the Licensee and the Issuing Authority and supersede all prior or contemporaneous agreements, representations or understandings (written or oral) of the parties regarding the subject matter hereof and, except as otherwise provided herein, can be amended or modified only by a written instrument executed by both parties. Any ordinances or parts of ordinances that conflict with the provisions of this License are superseded by this License.

12.11. *Captions:* The captions and headings of articles and sections throughout this License are intended solely to facilitate reading and reference to the sections and provisions of this License. Such captions shall not affect the meaning or interpretation of this License.

12.12. *Severability:* If any section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unenforceable, by any court of competent jurisdiction or by any State or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, subsection, sentence,

paragraph, term or provision hereof, all of which will remain in full force and effect for the term of this License.

12.13. *Recitals*: The recitals set forth in this License are incorporated into the body of this License as if they had been originally set forth herein.

12.14. *No Recourse Against Issuing Authority*: Pursuant to Section 635A(a) of the Communications Act (47 U.S.C. § 555(a)), the Licensee shall have no recourse against the Issuing Authority, the Town and/or its officials, members, employees or agents other than injunctive relief or declaratory relief, arising from the regulation of Cable Service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this License.

12.15. *FTTP Network Transfer Prohibition*: Under no circumstance including, without limitation, upon expiration, revocation, termination, denial of renewal of this License or any other action to forbid or disallow the Licensee from providing Cable Services, shall the Licensee or its assignees be required to sell any right, title, interest, use or control of any portion of the Licensee's FTTP Network including, without limitation, the Cable System and any capacity used for Cable Service or otherwise, to the Town or any third party. The Licensee shall not be required to remove the FTTP Network or to relocate the FTTP Network or any portion thereof as a result of revocation, expiration, termination, denial of renewal or any other action to forbid or disallow the Licensee from providing Cable Services. This provision is not intended to contravene leased access requirements under Title VI or the PEG requirements set out in this License.

12.16. *Interpretation*: The Issuing Authority and the Licensee each acknowledge that it has received independent legal advice in entering into this License. In the event that a dispute arises over the meaning or application of any term(s) of this License, such term(s) shall not be construed by the reference to any doctrine calling for ambiguities to be construed against the drafter of the License.

12.17. *No Third-Party Beneficiary*: Nothing in this License shall be construed to create or confer any rights or benefits to any third party.

12.18. *Counterparts*: This License may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Further, this License may be executed by facsimile, email, electronic signature or other electronic means, and so executed shall have the full force and legal effect as an executed original of this License.

SIGNATURE PAGE FOLLOWS

AGREED TO THIS ____ DAY OF _____, 2024.

TOWN OF MIDDLETON
By its Select Board:

VERIZON NEW ENGLAND INC.

Richard Kassiotis, Chair

By: _____
Paul Sullivan, Region President –
Consumer & Mass Business Markets

Debbie Carbone, Clerk

Kosta E. Prentakis

Brian M. Cresta

Jeffrey P. Garber

Approved as to Form:

Approved as to Form:

William Hewig, III
Cable Counsel
KP Law, P.C.
101 Arch Street, 12th Floor
Boston, MA

Verizon Law Department

Signature Page

EXHIBIT

EXHIBIT A – MUNICIPAL BUILDINGS TO BE PROVIDED CABLE SERVICE (SUBJECT TO SECTION 3.3)

Exhibit List

Town of Middleton – Verizon New England Inc.
Cable Television Renewal License – 11/19/24

EXHIBIT A
MUNICIPAL BUILDINGS TO BE PROVIDED
CABLE SERVICE (SUBJECT TO SECTION 3.3)

- | | | |
|-----|--|-----------------------|
| 1. | Memorial Hall | 48 South Main Street |
| 2. | Old Town Hall | 38 Maple Street |
| 3. | Fire Department HQ | 4 Lake Street |
| 4. | Flint Public Library | 1 South Main Street |
| 5. | Police Department | 65 North Main Street |
| 6. | MELD Building | 197 North Main Street |
| 7. | Howe Manning School | 26 Central Street |
| 8. | Fuller Meadow School | 143 South Main Street |
| 9. | PEG Access Studio | 143 South Main Street |
| 10. | DPW Building | 195 North Main Street |
| 11. | Community Building at Middleton Housing Authority (Orchard Circle) | |

Exhibit A



OFFICE OF THE TOWN ADMINISTRATOR

Town of Middleton
Memorial Hall
48 South Main Street
Middleton, MA 01949-2253
978-777-3617
www.middletonma.gov

7.a

July 31, 2024

To: All Employees

From: Jackie Bresnahan, Assistant Town Administrator/HR Director

RE: Proposed Employee Handbook Changes for August 13, 2024 Select Board Meeting

As many of you know, we've been working on updates to the Employee Handbook. While the Sick Leave Bank has already been finalized, there are some other items as well. I will be making a presentation on the following three dates for any employees who wish to review the updates. I will also send out the presentation and a "tracked changes" draft early next week ahead of the three sessions. A few updates are based on changes to the Labor Laws, others focus on IT Use based on feedback from our strategic partners at New Era (formerly Inno4) and Danvers, and others are based on discussions I've had with employees whether through union meetings, casual conversations, or focus groups earlier in the year. I want to thank you all for the participation in those conversations as the feedback was very valuable.

All of the sessions are at the Flint Public Library in the Trustees Room:

- Wednesday 7/31 from 12:30 pm-1:30 pm
- Thursday 8/1 from 10 am – 11 am
- Tuesday 8/6 from 3:30 pm – 4:30 pm

Additionally, a reminder that any collective bargaining agreement supersedes the Employee Handbook for the members of that unit.

At the end of this memo, you will find an itemized list of changes. Here is a high level list:

- Change Board of Selectmen to Select Board
- Updated Acceptable IT Use Policies
- New Use of AI in the workplace policy
- Updates to vacation, personal, and bereavement leave
- Codification of departmental Financial policies into Handbook

On the next page, you will find the itemized list.

- Page 3 Selectman to Selectboard
- Page 5-6-page number changes
- Page 7 Selectmen to Selectboard
- Page 8 Selectmen to Selectboard
- Page 9 Part Time Employee over 20 hours definition update
- Page 13 Paragraph I – grammar change
- Page 16 Selectmen to Selectboard
- Page 17 add paragraph on exit interview process for employee’s directly supervised by public body’s to reference OML
- Page 18 grammar change
- Page 20 Selectmen to Selectboard
- Page 30 Awaiting updated vehicle use policy with edits from MIIA
- Page 30 Codifies existing practice for Fed Tax ID use for employees
- Page 32 add items from financial policies to handbook regarding WEX procedures
- Page 30-33 grammar changes
- Page 33 Selectboard to Selectman
- Page 34 Update from Northshore IT
- Page 37 Social Media Use Update from Danvers
- Page 38 grammar changes
- Page 39-40 Visitors code of conduct clarification
- Page 41 Timesheets must be signed by employees
- Page 43 Legal citation
- Page 48 add new sick bank policy – already approved
- Page 51 Updated vacation for 20 years of service
- Page 51 Add holidays – Juneteenth, Day after Thanksgiving
- Page 52 increase personal days to 3
- Page 53 Update and additions to Bereavement leave
- Page 56 add Health insurance % changes – based on approved changes
- Page 57 add Health insurance and other changes – based on approved changes
- Page 57 – codifying current use of sick time in workers comp section
- Page 58 add reference to Worker’s Compensation Procedures
- Page 59 Selectmen to Selectboard
- Page 60 grammar changes to clarify use of “comp” and “flex” interchangeably
- Page 61 update Reimbursement policy with current finance department policy
- Page 62 Selectmen to Selectboard
- Page 63 Selectmen to Selectboard
- Page 65 Selectmen to Selectboard and update Health insurance % changes
- Page 66 grammar changes
- Page 67 Health insurance % changes – already approved
- Page 69 grammar changes
- Page 79 grammar changes

7.b.

Personnel Policies & Procedures

TOWN OF MIDDLETON



DRAFT

*** 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~~ [Select Board](#) 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
Justin Sultzbach

Assistant Town Administrator/
HR Director
Jackie Bresnahan

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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 Select Board](#)

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~~ Select Board, 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~~ Select Board, 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~~ Select Board 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.

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Commented [JB1]: Being renamed as Full-time benefits eligible, as there is no distinction once over 20 hours under the law.

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.

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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 ~~six~~6 months unless otherwise specified by law.

Public Safety Position - Any position included in the Fire Department ~~or~~ Police Department; ~~or~~ any ambulance attendant, Emergency Medical Technician, or other similar position ~~—~~; ~~not neither~~ 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 ~~time~~ 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 and 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. Separation 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~~ Select Board 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. [If the appointing authority is a public body, any exit interview must be done within compliance of the Open Meeting Law \(OML\) and should consult the Town Administrator's Office for guidance on best practices.](#)

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~~[Select Board](#), 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 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. 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.

Use of Town Federal Tax Identification Number

Employees in the course of their duties may be given the Town's Federal Tax ID Number or Certificate for purchasing purposes. Any use of the Federal Tax ID for non-municipal purpose is strictly prohibited for all employees under all circumstances.

P. Vehicle Use

Commented [JB2]: Awaiting updated policy from MIA

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 Town~~ vehicle is ~~damaged or~~ 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.

Employees who are issued WEX cards for the purpose of filling fuel into Town vehicles are expressly prohibited from using WEX cards for filling for personal use. All use of personal vehicles for Town purposes should utilize the mileage reimbursement program as outlined within the Finance Department policies.

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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
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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~~Select Board, 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

Commented [JB3]: North Shore IT Collab is drafting updated Acceptable Use policy

- 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

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(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 24/7 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, nor does the Town tolerate harassment or intimidation that interferes with a Town employee's ability to perform his/her job duties.

~~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 sexually inappropriate conduct
- 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/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 and by the employee to confirm the hours worked, leave taken, and pay amount is accurate.

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/Select Board. 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 below](#). 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 collective 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 under the Family and Medical Leave Act.

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

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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 1st 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 30th of the ensuing year. Allowance for roll-over time greater than one week or beyond September 30th, 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 *pro-rated*
- 5th Anniversary Date - 40 hours *additional award*
- After 5 years of service - 120 hours
- 10th Anniversary Date - 40 hours *additional award*
- After 10 years of service - 160 hours
- 20th Anniversary Date - 40 hours *additional award*
- After 20 years of service - 200 hours

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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 1st.

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
- Juneteenth
- Independence Day
- Labor Day

- Columbus Day
- Veteran's Day
- Thanksgiving Day
- Christmas Day

Middleton also recognizes the day after Thanksgiving as a paid holiday.

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 ~~threetwo~~ (32) 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 ~~five (5)~~ three (3) days of bereavement leave for regular scheduled time lost due to a death of an employee's ~~wife or husband~~ spouse, child, mother, father, mother-in-law, father-in-law, brother, sister, grandparent, or such other member of his family living under said employee's roof. ~~Employees shall be paid for one (1) day of bereavement for an uncle, aunt, niece, nephew, or cousin.~~ 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 ~~or for additional time.~~

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~~64% 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 1st 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 ~~the current employee share~~ 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 ~~64~~0% of the monthly cost and the remaining ~~36~~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 ~~36~~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 65th 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 65th 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 64.40% of the monthly cost and the remaining 35.60% is paid by the retiree. 60.64% 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. Workers' 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 (5) days, the employee will use accrued sick time, which will be returned if employee begins coverage under 111F or Worker's Compensation 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 Workers' 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.

Commented [JB5]: Codifying current policy

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 (5) 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.

[Reference the Workers Compensation procedures for more information](#)

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

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~~[Select Board](#).

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" or flex 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

Commented [JB6]: Best practice refresh

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 ~~the~~ 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 ~~four~~ (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~~[Select Board](#)'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.

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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~~[Select Board](#), 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 ~~36~~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~~Select Board determines the actual contribution percentage of premium apportionment, subject to certain bargaining requirements.
 - 2. The town's current premium contribution is

Employer Share = ~~64~~40% Employee Share = ~~36~~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 ~~benefits~~-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 thirty (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 fifteen (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 64.0% 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 ~~36~~40% of the premium.
- COBRA Qualified Plans – Former employee or Dependent Pays 100%
- Supplemental Plans (Dental) employee pays 25%.

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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.

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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.

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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.

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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.

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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

7c.

Technology/Internet Policy

1. Purpose

The purpose of this Technology/Internet Policy is to establish guidelines for the appropriate use of the municipal organization's IT resources, including computers, networks, email, and internet access. The aim is to protect the integrity, security, and performance of these resources while ensuring they are used in a responsible and legal manner.

2. Scope

This policy applies to all employees, contractors, consultants, temporaries, and other workers at the municipal organization, including all personnel affiliated with third parties who have access to or use the organization's IT resources.

3. Policy

3.1. Acceptable Use

- **Business Purposes**
 - IT resources are provided primarily for municipal business purposes, including conducting official duties, communication, research, and other work-related activities.
- **Personal Use**
 - Limited personal use of IT resources is permitted, provided it does not interfere with work duties, incur additional costs, or violate any municipal policies or laws.

3.2. Prohibited Use

- **Illegal Activities**
 - Users must not use IT resources for any activities that are illegal under local, state, or federal laws, including but not limited to unauthorized access to systems, distribution of malware, and copyright infringement.
- **Unauthorized Access**
 - Users must not attempt to gain unauthorized access to any systems, networks, or data, whether within or outside the municipal organization.
- **Inappropriate Content**
 - Users must not access, download, or distribute content that is obscene, offensive, discriminatory, or harassing.
- **Commercial Use**

This will replace current policy within Handbook once legal review is complete

- IT resources must not be used for personal commercial purposes or for financial gain.
- **Bandwidth and Resource Usage**
 - Users must not engage in activities that excessively consume network resources, such as streaming videos for non-work purposes, downloading large files unrelated to work, or running bandwidth-intensive applications.

3.3. Software Installation and Usage

- **Approved Software**
 - Only software listed in the approved software inventory may be installed and used on organizational devices.
 - The IT department is responsible for maintaining and updating the approved software inventory.
- **Software Installation**
 - All software installations must be approved by the IT department to ensure compatibility and compliance with licensing agreements.
 - Users must not install or attempt to install software without prior approval from the IT department.
 - The IT department will handle the installation and configuration of all approved software.
- **Unauthorized Software**
 - Unauthorized software, including pirated or unlicensed software, is strictly prohibited.
 - Any unauthorized software found on organizational devices must be reported to the IT department and removed immediately.
- **Software Usage**
 - Users must use software in accordance with the terms of the software license agreements and organizational policies.
 - Software must not be used for personal gain or activities unrelated to organizational business.
- **Software Updates and Patches**
 - The IT department will ensure that all software is regularly updated and patched to protect against security vulnerabilities.
 - Users must not disable or delay software updates and patches.

3.4. Email and Communication

- **Official Communication**
 - Use municipal email accounts for official communication. Personal email accounts should not be used for municipal business.
- **Confidentiality**
 - Ensure that emails containing sensitive or confidential information are appropriately marked and encrypted as necessary.

This will replace current policy within Handbook once legal review is complete

- Email Etiquette
 - Follow professional etiquette in all email communications. Avoid sending chain letters, spam, or unnecessary large attachments.

3.5. Internet Usage

- Browsing
 - Use the internet for work-related research, communication, and activities. Personal browsing should be minimal and must not interfere with work responsibilities.
- Downloads
 - Do not download software, applications, or files from the internet without prior approval from the IT department.

3.6. Security and Privacy

- Password Management
 - Use strong passwords and keep them confidential. Do not share passwords with others or write them down where they can be easily found.
- Data Protection
 - Protect sensitive and confidential data from unauthorized access. Use encryption and secure storage methods where necessary.
- Reporting Incidents
 - Immediately report any security incidents, such as data breaches, lost devices, or suspected malware, to the IT department.

3.7. Bring Your Own Device (BYOD)

- Authorization for BYOD
 - Employees must obtain approval from the IT department before using personal devices for work purposes.
 - Approved devices must be registered with the IT department and configured to comply with organizational security standards.
- Access Control
 - Personal devices will connect to guest wireless networks for Internet connectivity only. Security network access is prohibited.
- Data Protection
 - Personal devices are prohibited from storing sensitive organizational data.
 - Personal devices must not be shared with unauthorized individuals.

This will replace current policy within Handbook once legal review is complete

3.8. Data Handling and Protection

- Data Classification
 - All data must be classified based on its sensitivity and importance
 - Data classification levels include
 - Public: Information that can be freely shared with the public.
 - Internal: Information intended for internal use within the organization.
 - Confidential: Sensitive information requiring protection from unauthorized access.
 - Restricted: Highly sensitive information requiring strict access controls.
- Data Access Control
 - Access to data must be granted based on the principle of least privilege, ensuring that individuals have access only to the data necessary for their job functions.
 - Access control lists (ACLs) must be established and maintained to manage permissions for sensitive data.
- Data Handling Procedures
 - Specific procedures must be implemented for handling different types of data, particularly sensitive data.
 - Data handling procedures include guidelines for data creation, modification, transmission, storage, and disposal.
- Data Storage
 - Data must be stored securely, with access controls in place to prevent unauthorized access.
 - Sensitive data must be stored in encrypted formats and on secure servers.
- Data Transmission
 - Sensitive data transmitted over networks must be encrypted using secure protocols such as SSL/TLS.
 - Email containing sensitive data must be encrypted, and external recipients must be verified before sending.
- Incident Reporting:
 - Any suspected data breaches or unauthorized access must be reported immediately to the IT department.
 - The IT department will investigate and take appropriate action to mitigate risks and prevent future occurrences.

3.9. Email and Internet Usage

- General Use
 - Email and internet resources provided by the organization are intended for business use.
 - Limited personal use is permitted, provided it does not interfere with job performance or business operations and complies with this policy.
- Email Usage

This will replace current policy within Handbook once legal review is complete

- Organizational email accounts must be used primarily for business communication.
- Users must not use organizational email accounts for sending or receiving offensive, inappropriate, or illegal content.
- Users must not use organizational email accounts for personal commercial activities or personal gain.
- Email Security
 - Users must not open email attachments or click on links from unknown or untrusted sources.
 - Users must be cautious of phishing emails and report any suspicious emails to the IT department immediately.
 - Email communications containing sensitive information must be encrypted.
- Internet Usage
 - Internet access is provided for business purposes. Limited personal use is allowed but must not interfere with work responsibilities.
 - Users must not access, download, or distribute offensive, inappropriate, or illegal content.
 - Users must avoid visiting suspicious websites that could pose security risks to the organization's network.
- Internet Security
 - Users must use the internet responsibly and securely, following the organization's security guidelines.
 - Users must not download or install software from the internet without IT department approval.
 - Users must ensure that their web browsers are configured securely and kept up to date with the latest security patches.

3.10. Multi-Factor Authentication (MFA)

- MFA Implementation
 - MFA must be implemented for all user accounts that access sensitive systems and data.
 - MFA will be required for remote access to the organization's network and for administrative accounts.
- MFA Methods
 - Acceptable MFA methods include:
 - Something the user knows (e.g., password or PIN)
 - Something the user has (e.g., smartphone app, hardware token)
 - Something the user is (e.g., fingerprint, facial recognition)
 - The organization will support and provide approved MFA solutions such as authentication apps, hardware tokens, and biometric devices.
- User Responsibilities
 - Users must enroll in the MFA system and configure at least two authentication methods.

This will replace current policy within Handbook once legal review is complete

- Users are responsible for maintaining the security of their authentication methods (e.g., keeping hardware tokens secure and not sharing authentication codes).
- Users must promptly report any loss, theft, or compromise of MFA devices or methods to the IT department.
- MFA for Remote Access
 - MFA is mandatory for all remote access to the organization's network, including VPN access and remote desktop sessions.
 - Remote access sessions will require MFA verification at each login.
- MFA for Administrative Access
 - Administrative accounts with elevated privileges must use MFA for all access to sensitive systems and data.
 - Administrative access will be audited regularly to ensure compliance with MFA requirements.
- Exemptions and Exceptions
 - Any exemptions or exceptions to using MFA must be approved by the IT department and senior management.
 - Temporary exceptions may be granted for specific cases but must include compensating controls to mitigate risks.

3.11. Remote Access

- Authorization for Remote Access
 - Remote access to the organization's network must be authorized by the IT department.
 - Access will be granted based on business need and must be approved by the employee's manager and the IT department.
- Approved Remote Access Solutions
 - All remote access to the organization's network must be through approved remote access solutions, including Virtual Private Networks (VPNs) and remote desktop services.
 - Users must not use unapproved remote access solutions.
- Security Requirements for Remote Devices
 - Devices used for remote access must comply with the organization's security standards, including up-to-date antivirus software, firewalls, and operating system patches.
 - Users must ensure their remote access devices are secure and free from malware before connecting to the organization's network.
- User Responsibilities
 - Users must not share their remote access credentials with anyone.
 - Users must log off and disconnect from the network when remote access is no longer needed.
 - Users must report any loss, theft, or unauthorized access of remote access devices to the IT department immediately.

3.12. Municipal Electronic Records Retention

- Compliance with State Laws
 - All electronic records must be retained in compliance with the Massachusetts Public Records Law (G. L. c. 66, § 1, et seq.) and the Massachusetts Statewide Records Retention Schedule.
 - Records must be managed in accordance with Chapter 110G, Section 12 of the Massachusetts General Laws, ensuring electronic records accurately reflect the original information and remain accessible.
- Retention Schedules
 - Follow the Massachusetts Statewide Records Retention Schedule for determining the retention period for different types of records. Refer to the Secretary of the Commonwealth's website for the full schedule.
 - Key retention periods include:
 - Administrative Records: Retain for 3 years unless specified otherwise.
 - Financial Records: Retain for 7 years.
 - Personnel Records: Retain for the duration of employment plus 7 years.
 - Legal Records: Retain for the duration specified by relevant legal requirements.
 - Health and Safety Records: Retain according to regulatory requirements, typically ranging from 3 to 10 years or permanently, depending on the record type.
- Record Management and Accessibility
 - Ensure that all electronic records are stored in a manner that guarantees their integrity and accessibility for the required retention period.
 - Use secure and reliable electronic systems that support audit trails and prevent unauthorized access, alterations, or deletions.
 - **Do not store pertinent files on local devices.** All important electronic records should be stored in Office 365 to ensure they are backed up and accessible.
 - **Do not wipe devices or delete records without authorization.** Any disposal or deletion of records must be authorized and conducted in accordance with this policy.
- Disposal of Records
 - Once the retention period has expired, electronic records should be disposed of securely and in accordance with state guidelines to prevent unauthorized access to sensitive information.
 - Document the disposal process, including the date and method of disposal, and retain this documentation for future reference.
- Use of Third-Party Services
 - If utilizing third-party services for record retention, ensure that the service provider complies with all relevant legal and regulatory requirements and that the records remain accessible and secure.

3.13. Incident Reporting

- Definition of an Incident
 - A security incident is any event that has the potential to compromise the confidentiality, integrity, or availability of the organization's information systems and data. This includes, but is not limited to, data breaches, malware infections, unauthorized access, and loss or theft of devices.
- Incident Detection
 - All employees must be vigilant and promptly report any suspicious activities, anomalies, or actual security incidents.
 - Users must not attempt to investigate or resolve security incidents on their own.
- Reporting Procedures
 - Incidents must be reported immediately to the IT department via the designated reporting channels, such as a dedicated email address, phone number, or incident reporting system.
 - Incident reports should include the following information
 - Date and time of the incident
 - Description of the incident
 - Systems or data affected
 - Actions taken (if any)
 - Contact information of the person reporting the incident

3.14. Monitoring and Compliance

- Monitoring
 - The municipal organization reserves the right to monitor the use of IT resources to ensure compliance with this policy. Users should have no expectation of privacy when using municipal IT resources.
- Compliance
 - All users must comply with this policy. Non-compliance may result in disciplinary action, up to and including termination of employment or contract.

Town of Middleton Interim Generative Artificial Intelligence Policy

I. Scope

This Interim Policy applies to all employees, contractors, and agents (together, “Town employees”) of the Town of Middleton (the “Town”). To the extent that this Interim Policy conflicts with any collective bargaining agreements or individual employment contracts, said agreements and employment contracts will control.

II. Purpose

Generative artificial intelligence systems (“AI”) have become extremely popular and prevalent in a very short amount of time; as such, there is likely interest in using such systems to conduct Town business. The field is emergent and rapidly evolving, and the potential policy impacts and risks to the Town are not fully understood. Town use of AI is therefore likely to result in unanticipated and unmitigated impacts. This Interim Policy is intended to minimize such impacts as the Town – and the world – learns to use this valuable but still very new technology.

III. Background and Definition

Generative AI refers to a class of AI systems that are capable of generating content, such as text, images, video, or audio, based on a set of input data rather than simply analyzing or acting on existing data. Popular generative AI systems include GPT-3 and GPT-4/ChatGPT, Dall-E, and Lensa AI among many others. Generative AI technology is rapidly being incorporated into common online tools, such as search engines. These systems have the potential to support many Town business functions and services, however their use also raises important questions, particularly around the sourcing of training data, ensuring proper attribution of generated content, and the handling of sensitive or public data. Further research into this technology may uncover issues that require more restrictions on its use. Employees are strongly advised to not invest heavily in using this technology or use it to support critical processes.

IV. Rule Governing Town Employee Use of AI to Conduct Town Business

Acquisition or use. All Town software services, even if they are free or part of a pilot or proof-of-concept project, must be acquired via the Town’s IT’s acquisition processes to ensure the software receives all necessary reviews and considerations. This requirement applies to downloadable software, Software as a Service, web-based services, browser plug-ins, and smartphone apps.

- If a Town employee wishes to create an account with an AI service or otherwise use AI to conduct Town business, the employee must submit a purchase request for software, specify the AI service and describe how it will be used, and obtain departmental approval.

- Use of AI that is incorporated into existing services and products, such as internet search engines, does not require permission to use, but must follow the rules set forth in this Section IV.

Intellectual property. Content produced by AI may include copyrighted material. AI may be “trained” using data (text, images, etc.) that has been sourced from the internet without regard for copyright or licensing terms. It is extremely difficult to determine what content was used to train an AI system, and difficult to verify whether AI-generated content is wholly original or only a slightly revised version of existing copyrighted material. Nevertheless, Town employees are required to perform due diligence to ensure that no copyrighted material is published by the Town without proper attribution or without obtaining proper rights.

Attribution and accountability. Consumers of electronic content should know when content was produced by AI in whole or in part. If a Town employee uses AI-generated content, the content must be clearly labeled as having been produced using generative AI tools. Town employees must also consider including information about how the material was reviewed and edited, and by whom. This allows consumers of the content to understand its authorship and be able to evaluate the content accordingly.

Data privacy. Town employees are prohibited from submitting any sensitive, proprietary, confidential, or regulated data, or any personally-identifiable data about members of the public, to an AI system.

Public records. Town employees must be aware that the use of AI may result in the creation of a public record that must be retained under the Commonwealth’s Public Records Law.

Ethical Considerations. It is the sole responsibility of Town employees to ensure that the content generated from their use of AI is true, accurate, and does not undermine the Town’s business interests or its ability to serve its citizens and the public.

Compliance with the Law. Town employees are prohibited from using AI in a manner that violates local, state, or federal law or regulation.

V. Oversight and Enforcement

The Town’s IT Department will monitor Town employee use of AI to ensure compliance with this Interim Policy and to evaluate the effectiveness and impact of AI. The Town’s IT Department will also conduct regular audits to assess the security practices and data handling procedures associated with AI.

Employees who violate this Interim Policy or who otherwise impede its implementation or enforcement will be subject to discipline, up to and including termination.

Middleton Field Use Policy

This policy is intended for use at fields permitted by the DPW. They include:

Memorial Hall/Tragert Common Field
Emily Maher (Natsue Way) Field
Rubchinuk Park
Howe Manning Field
Fuller Meadow Fields

Field Use

Permits for the Fields will be issued by the Middleton DPW. The Permittee should have the original permit on hand at events. All equipment is to be provided by the permitted entity.

Permits will be issued according to the following User Priority List:

- 1) Middleton Public Schools
- 2) Middleton Youth Sports Groups – must be a non-profit Middleton organization benefitting Middleton children
- 3) Middleton Recreation Department Programs
- 4) Middleton Non-Profit Community Groups (with 60% or more Middleton residents or adults that work in Middleton)
- 5) Middleton Non-profit Community Groups (with between 25% and 59% Middleton residents or adults that work in Middleton)
- 6) Middleton For-profit Entities (with 25% and more Middleton residents or adults that work in Middleton)

Permits will not be issued during scheduled maintenance or improvements, or will not be valid if there are hazardous field conditions (i.e. snow, debris, adverse weather, etc.) as determined by the DPW. The DPW Superintendent has the authority to disallow use at any point in time. These natural fields need to be rested. They will not necessarily be permitted for non-stop activity.

Spring permit holders may not access the field until the DPW Superintendent has opened the field for the season and fall permits will end at the date determined by the DPW Superintendent or November 30.

Permits will be given at the discretion of the DPW in an attempt to be as fair as possible within the User Priority List. Consideration will be given to intended use of the field, size of the organization and alternative sites available to organizations.

Permit requests will be accepted by the DPW as follows:

- January for Spring (seasons beginning between April 1 (approximately) and June 30) DPW will determine the start date each year
- March for Summer (seasons beginning between July 1 and August 31)
- May for Fall (seasons beginning after September 1)

Permit Application Process

All applicants must be at least 21 years old, and a Middleton resident. A Field Permit Request Form must be filled out completely, and submitted to the Middleton DPW. The Permit Request Form will be available on the DPW section of the town website: <https://middletonma.gov/FormCenter/Public-Works-6/Field-Use-Request-64> The person submitting the request will be the primary contact for the program, and will be held responsible for understanding and accepting all rules and regulations and payment of any fees. Permits are not transferrable and cannot be shared with other groups. The facility is to be used only on the dates and times specified on the permit. A permit can be canceled without notice if its provisions or intent are violated in any way.

The Permittee assumes full responsibility and liability for injury to any person or persons and damages to or loss of private property during the period of the permit. The Permittee is responsible for ensuring that all members of their organization abide by the rules and regulations set herein.

The Permittee is required to be in full compliance with the Middleton Board of Health regarding all State and Local requirements for camps, clinics, and similar programs prior to the start date of their permit.

Field Rules

Trash Policy – Permitted users are expected to clean the site daily, and leave no trash behind.

No smoking of tobacco products (including electronic or vapor type cigarettes) is allowed. No alcohol is allowed.

No grilling is allowed.

No dogs or other domestic animals are allowed on the premises.

Feeding of wildlife is not permitted.

No personal property or equipment may be left on site except as noted for permit holders.

The fields are open from dawn to dusk, unless the field has been permitted for a later event.

Vehicles must park in marked parking spaces only. No events may be held where parking needs would exceed the parking spaces at the Facility. No overnight parking is permitted. No “off-road” vehicles or unregistered vehicles are allowed. All motorized vehicles and other motorized devices must be in the parking lot and/or the designated parking spaces only. No idling of parked vehicles is allowed.

Most maintenance will occur on weekdays. Users are required to yield to maintenance personnel and equipment.

No fundraising activities by for-profit organizations are allowed.

Participants are encouraged to assist in field maintenance when possible (such as raking infield clay, cleaning debris, etc.).

Penalties

The Middleton DPW and/or the Middleton Town Administrator reserve the right to revoke a permit at any time.

Falsification of any information provided in the permit request is grounds for a permit to be revoked.

Contact

Permit Request Form available at: <https://middletonma.gov/FormCenter/Public-Works-6/Field-Use-Request-64>

Questions should be directed to the DPW at 978-777-0407.

86.

Jackie Bresnahan

From: Paul Goodwin
Sent: Tuesday, July 30, 2024 2:27 PM
To: Jackie Bresnahan
Subject: RE: Middleton Field Use Policy

Hi Jackie,

I don't have a problem with it if it what the BOH requires. I would keep it as simple as possible.

Paul

From: Jackie Bresnahan <Jackie.Bresnahan@middletonma.gov>
Sent: Tuesday, July 30, 2024 10:01 AM
To: Paul Goodwin <paul.goodwin@middletonma.gov>
Subject: FW: Middleton Field Use Policy

Hi Paul,

Can you please provide any comments on this request from DPW?

Thanks,

Jackie

Jackie Bresnahan
Assistant Town Administrator/HR Director
Town of Middleton
48 South Main Street
Middleton, MA 01949
Phone: 978-777-3617
Email: jackie.bresnahan@middletonma.gov

Please be advised the Office of the Secretary of State for the Commonwealth of Massachusetts has determined that E-mail could be considered a public record.

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From: Scott Saulnier <scott.saulnier@middletonma.gov>
Sent: Thursday, July 25, 2024 11:06 AM
To: Jackie Bresnahan <Jackie.Bresnahan@middletonma.gov>
Subject: Middleton Field Use Policy

Good Morning,

I hope all is well.

We were wondering if it is possible to change the Field Use Policy to add language for applicants to check with the Health Department to see if a summer camp permit is needed. If so, could language be added to the online request form also? We asked Paul Goodwin about it and he said that your predecessor wrote the policy with input from him. We've come to realize that there have been sports camps on Rubchinuk Field that should have had a camp permit.

Thanks,
Scott



Mead, Talerman & Costa, LLC
Attorneys at Law

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Suite 606
New Bedford, MA 02740
www.mtclawyers.com

10.

ADVISORY

TO: TOWN MANAGERS, ADMINISTRATORS, MAYORS AND PLANNERS
FROM: MEAD, TALERMAN & COSTA, LLC
SUBJECT: THE AFFORDABLE HOMES ACT (H. 4977)
SUMMARY OF LEGISLATIVE CHANGES
DATE: AUGUST 8, 2024

Reference is made to the certain recent changes to Massachusetts law, via the so-called Affordable Homes Act (the “Act”). This advisory addresses several very significant changes that have been adopted by the Legislature and signed by the Governor relating to zoning and housing matters. The following is a breakdown of these changes to certain sections of the General Laws. The legislation at issue is known as H. 4977. The provisions of the Act that are described below are effective as of the date of passage, with the exception of some of the changes related to Accessory Dwelling Units, as discussed below.

I. Provisions for Year-Round Housing in Seasonal Communities (starting at p. 59)

The legislation updates Chapter 23B of the General Laws by adding a new Section 32 thereto providing or allowing for “seasonal community” designations. The secretary of housing may designate a municipality as a seasonal community; provided, however, that all municipalities in Dukes and Nantucket Counties, and certain municipalities in Barnstable and Berkshire Counties, are automatically designated as seasonal communities. A municipality designated by the secretary of housing as a seasonal community must accept or deny such designation by vote of its legislative body, i.e. by City Council or Town Meeting vote.

Seasonal communities are authorized to acquire year-round housing occupancy restrictions for rental or other housing; to acquire and develop housing units with preference for housing seasonal community public employees necessary to the health and safety of maintaining a year-round community; may establish a year-round housing trust fund; and may expend funds designated for the creation and preservation of year-round affordable and attainable housing for individuals who produce or support artistic and literary activities.

Newburyport Office
30 Green Street
Newburyport, MA 01950

Millis Office
730 Main Street, Suite 1F
Millis, MA 02054
Phone/Fax 508.376.8400

As used above, the new legislation defines “year-round housing” as “housing for occupancy by persons or families who occupy either rented or other housing as their principal residence for not less than 10 months per year.” It defines “attainable housing” as “housing that is affordable for year-round residents with incomes under a level set by the undersecretary [of housing and livable communities].” Such housing is likely to be identified as housing that is affordable for households earning between 100% and 200% of area median income, thereby setting up opportunities to create middle-income units.

Seasonal communities must adopt zoning ordinances or bylaws to permit undersized lots to be used for the creation of attainable year-round housing, as defined above, so long as the lot, at the time of recording or endorsement, was in a zoning district that allows for single-family residential use, and further provided that any such housing is not used as a seasonal home or short-term rental of less than six months. Seasonal communities must also permit the construction of tiny houses designated for use as year-round housing units. A “tiny house” is defined as “a detached structure containing a dwelling unit containing 400 square feet or less in floor area, excluding lofts.”

II. Accessory Dwelling Units (starting at p. 75)

The most notable statutory change in this legislative package relates to the allowance of accessory dwelling units (ADUs) as a matter of right. The legislation amends Sections 1A and 3 of Chapter 40A and allows, subject to reasonable regulation, ADUs (as re-defined in the legislation, below) in single-family residential zoning districts.¹ Specifically, ADUs are newly defined as follows:

“a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in gross floor area than 1/2 the gross floor area of the principal dwelling or 900 square feet, whichever is smaller; and (iii) is subject to such additional restrictions as may be imposed by a municipality, including, but not limited to, additional size restrictions and restrictions or prohibitions on short term rental, as defined in section 1 of chapter 64G; provided, however, that no municipality shall unreasonably restrict the creation or rental of an accessory dwelling unit that is not a short-term rental.”

Thus, to qualify as an ADU, a unit’s size cannot exceed one-half of the gross floor area of the principal dwelling or 900 square feet, whichever is smaller.

Under the legislation’s amendments to G.L. c. 40A, § 3 (a.k.a. the “Dover Amendment”), “[n]o zoning ordinance or by-law shall prohibit, unreasonably restrict or require a special permit or other discretionary zoning approval for a single accessory dwelling unit or the rental thereof, in a single-family residential zoning district.” The new legislation also removes municipalities’ authority to impose an owner-occupancy requirement on an ADU in a single-family residential zone. Thus, if a proposed single unit, irrespective of whether it is attached or detached, meets the definition

¹ While the legislation is not clear, we believe that the intent of this provision is to be inclusive and not exclusive. Therefore, any district which allows single family homes would be subject to the ADU exemption.

of an ADU, and is in a single-family residential zone, regardless of occupancy, a municipality may not impose any special permit or other similar approval requirement.

If a proposed unit does not meet the size limitation noted above, it does not gain the protection of the amendment to Section 3.

Additionally, only one ADU is permitted by-right. The amendments specifically require: “For more than 1 accessory dwelling unit, or rental thereof, in a single-family residential zoning district, there shall be a special permit for the use of land or structures for an accessory dwelling unit” (emphasis added).

A municipality may still impose a site plan review requirement for ADUs falling within the protections of the Dover Amendment. The amendments provide that “the use of land or structures for such accessory dwelling unit under this paragraph [dealing with single ADU’s in single-family residential zones] may be subject to reasonable regulations, including but not limited to...site plan review, regulations concerning dimensional setbacks and the bulk and height of structures and may be subject to restrictions and prohibitions on short-term rentals” (emphasis added).

Another significant change is that the amendments eliminate a municipality’s authority to limit the occupancy of an ADU subject to protection under Section 3 to occupancy by family member(s) only.

Another new limitation applicable to ADUs under the statute is that no additional parking spaces are required if the unit is within ½ mile of transit; and there can be no requirement for more than one additional parking space per unit otherwise.

Depending on the nature of your existing Zoning Ordinance or Bylaw, your existing regulatory framework for ADUs may no longer be enforceable. State law would preempt conflicting provision(s) of a local ordinances and bylaws; and, if your Ordinance or Bylaw so qualifies, we would recommend changes be implemented to address and avoid any continue conflict, at your earliest available opportunity. The new legislation also offers an opportunity for cities and towns to develop new zoning ordinances and bylaws that impose common sense requirements on the development of ADUs.

The portion of the Act pertaining to ADUs is effective in 180 days, i.e. on February 2, 2025, so there is an opportunity to consider zoning changes before these changes become effective.

III. Nonconforming Lots/Merger (starting at p. 77)

Another meaningful change to existing law is the addition of a new paragraph under G.L. c. 40A, § 6, pursuant to which a municipality may no longer treat adjacent non-conforming lots under common ownership in single-family residential zoning districts as having merged if the lots, at the time of recording or endorsement, were conforming as to area, frontage, width, yard and depth, subject to certain qualifications.² To be entitled to the protections of this provision, these lots must contain not less than 10,000 square feet of area and have at least 75 feet of frontage. Furthermore, any single-family residential structure to be built upon such a lot cannot exceed 1,850 square feet of heated living area, shall contain at least 3 bedrooms, and cannot be used as a seasonal home or short-term rental.

IV. Appeals under G.L. c. 40A, § 17 (starting at p. 77)

The zoning appeals process has undergone changes as well, including by the incorporation of language or measures intended to dissuade dilatory or “NIMBY”-type appeals by abutters or others. First, the changes to Section 17 provide that:

² Based on similar provisions of Section 6, is it our belief that the new provision applies only to vacant lots.

“If the complaint is filed by someone other than the original applicant, appellant or petitioner, then each plaintiff, whether or not previously constituting parties in interest for notice purposes, shall also sufficiently allege and must plausibly demonstrate that measurable injury, which is special and different to such plaintiff, to a private legal interest that will likely flow from the decision through credible evidence.”

To a certain extent, the foregoing language adds nothing new to existing Massachusetts law, but codifies what was previously apparent only following a careful review of years of case law, i.e. that legal standing to challenge a decision rendered under the Zoning Act requires establishment through credible evidence of a particularized, zoning-related injury to the plaintiff. However, the new wording in the statute sends a clear message to challengers that meritless appeals by those personally unaffected by land use decisions will not be tolerated.

Amendments to Section 17 also vest the courts with discretion to require a plaintiff challenging the issuance of a special permit, variance or site plan approval to post a bond, in an amount up to \$250,000, “to secure the payment of and to indemnify and reimburse damages and costs and expenses incurred in such an action if the court finds that the harm to the defendant or to the public interest resulting from delays caused by the appeal outweighs the financial burden of the surety or cash bond on the plaintiffs.” Among the considerations the court may take into account are “the relative merits of the appeal and the relative financial means of the plaintiff and the defendant.” Notably, bad faith or malice is not required for issuance of a bond. Instead, separately, the legislation provides for assessment of costs and attorneys’ fees by the court upon a finding of bad faith or malice on the part of a party taking an appeal under Section 17. These changes are similar to existing requirements under G.L. c. 40R, as you might recall.

V. Affordable Housing for Veterans (starting on p. 79).

Another new provision added to Chapter 40A applies to municipalities which have adopted or permitted inclusionary or incentive zoning, or density bonus ordinances or bylaws. Under this amendment, a municipality may enter into an agreement with a developer for up to 10% of units in an affordable housing development to be set aside for preference to low or moderate-income veterans, as defined in G.L. c. 4, § 7, ¶ 43, for the first 90 days of the initial marketing period applicable to these units. Any such agreement does not affect the municipality’s ability to receive credit under Chapter 40B, or any other law, for these affordable units, and does not require an increase in the existing amount of affordable housing units required by the municipality. The law does allow municipalities to require proof of veteran status and income eligibility.

VI. Changes to Appeals to Housing Appeals Committee under G.L. c. 40B, § 22 (starting at p. 80)

A further legislative change adds language to the penultimate sentence in G.L. c. 40B, § 22, with the apparent intent to provide a mechanism for tracking extensions and delays in the processing of appeals to the Housing Appeals Committee. The Committee, you may know, is the agency that processes and adjudicates applicant challenges to the denial or conditional approval of comprehensive permit decisions, a.k.a. Chapter 40B decisions, issued by a municipality’s zoning board of appeals.

The amendment is set forth below in the context of Section 22, in bold font.

Section 22. Whenever an application filed under the provisions of section twenty-one is denied, or is granted with such conditions and requirements as to make the building or operation of such housing uneconomic, the applicant shall have the right to appeal to the housing appeals committee in the executive office of housing and livable communities for a review of the same. Such appeal shall be taken within twenty days after the date of the notice of the decision by the board of appeals by filing

with said committee a statement of the prior proceedings and the reasons upon which the appeal is based. The committee shall forthwith notify the board of appeals of the filing of such petition for review and the latter shall, within ten days of the receipt of such notice, transmit a copy of its decision and the reasons therefor to the committee. Such appeal shall be heard by the committee within twenty days after receipt of the applicant's statement. A stenographic record of the proceedings shall be kept and the committee shall render a written decision, based upon a majority vote, stating its findings of fact, its conclusions and the reasons therefor within thirty days after the termination of the hearing, unless such time shall have been extended by mutual agreement between the committee and the applicant **provided, however, that the committee shall provide notice to the secretary of any such extension or other failure to perform action by the deadlines set forth in this section and the reason for such delay, provided further, that the secretary shall annually, not later than November 1, submit to the governor and the joint committee on housing a summary of such delays including, but not limited to: (i) any deadlines missed pursuant to this section for each applicable appeal; (ii) the reason for any such delay; (iii) the total number of days, from the date of the committee's receipt of the applicant's statement of the prior proceedings, in which the committee ultimately issued a written decision or, if such appeal is in progress at the time the report is submitted, the projected number of days beyond the deadlines listed herein as may be necessary for the committee to issue a decision; and (iv) the board that issued the denial or conditions and requirements being appealed by the applicant.** Such decision may be reviewed in the superior court in accordance with the provisions of chapter thirty A.

This additional language is likely intended to address the Committee's current non-compliance with the existing requirement that it issue expedient decisions on appeals. Indeed, such delays are commonplace.

We hope that the above advisory is helpful. We are happy to work with you to adapt to these new changes. In the meantime, please let us know if you have any questions about the new legislation, or if you require any further information.