



POLICY GUIDELINES

SELECT BOARD

TOWN OF ANDOVER, MASSACHUSETTS

Members:

Alex J. Vispoli, Chair
Ellen Marie Townson, Vice Chair
Melissa Danisch, Clerk
Kevin T. Coffey
Laura M. Gregory

Originally Adopted: 1978

Revised: 1990

Revised: 2008

Reorganized and Confirmed: 2008

Section II.6.3 Fuel Efficient Vehicle Policy, Added: May 3, 2010

Section XII Investment Policy Added: June 7, 2010

Section I.4.3 Agenda, Amended: August 9, 2010

Section IV.2.3 Use of Town Owned Land, Amended: October 25, 2010 & November 22, 2010

Section XI.2 Alcoholic Beverages Licenses Hours of Operation Section 12 Licenses Amended: Feb. 28, 2011

Section XI.2 Alcoholic Beverages Licenses Subsection 18(d) added, Fee Schedule Amended: May 9, 2011

Sections V.2, Recycling & Trash Pickup, XI.2 & XI.5 Alcoholic Bev. Licensing Policy Amended: July 11, 2011

Section IV.2.3 Use of Town Owned Land, Amended: August 8, 2011

Section XI.2, 18. (a) Events With Alcohol In General: Amended October 3, 2011

Section II.6.3. Fuel Efficient Vehicle Policy, Amended: March 12, 2012

Sections XI.1 & XI.2 Licensing Policies, Amended: October 7, 2013

Section IV.1 Land Use, Amended: November 4, 2013

Section XII.8 PILOT Policy, Added: December 16, 2013

Section XII Misc. Policies Added XII.2 Customer Service & XII.3 Code of Conduct Policies & renumbered sections: June 2, 2014

Section XIII Investment Policy, Amended: June 16, 2014

Section II Municipal Vehicle Policy, Amended: July 21, 2014

Section XII.11 Miscellaneous Policies, Naming Facilities, Added: January 14, 2019

Section XIV Small Wireless Facility Design Rules and Regulations, Added: April 11, 2019

Section I.6 Public Comment at Select Board Meetings, Amended: October 7, 2019

Throughout, Updated Title of Board to “Select Board,” Amended: December 9, 2019
Section XI.2.L Alcoholic Beverage Licenses on Town Owned Property, Amended: February 24, 2020
Section XI.2.N Special One-Day Alcohol License Policy for Outdoor Events on Town Owned Property, Added:
February 24, 2020
Section XI.6 Temporary Regulations for Outdoor Dining Community Event (public property), Added: June 1, 2020
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Section XI.8 Temporary Regulations for Outdoor Dining Community Event (public property), Added: October 5,
2020
Section XI.9 Temporary Regulations for Outdoor Dining Community Event (private property), Added: October 5,
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Section I.3 Policy Guidelines, Vacancies on the Board, Amended: March 17, 2021
Section XI.3 Town of Andover Rules & Regulations for Public Vehicles for Hire, Amended: May 17, 2021
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I. SELECT BOARD OPERATIONS

I.1. VISION STATEMENT

The Town of Andover, more than a place to live, is a way of life. Its legacy of democracy shall be preserved. Each citizen should experience the treasures of nature, history, individual respect, neighborhood, and learning. As resources and energy allow, each of these gifts from the past will be enriched in the present for those yet to be.

Passed 1/25/93

I.2. MISSION & VALUES STATEMENT

Developed by the
Select Board, Town Manager, and Town Department Heads

Adopted by the Select Board on October 6, 2003

The mission of the Town of Andover is to ensure the safety, education and well-being of the community; to be a leader in the delivery of efficient and effective quality services that respond to community needs; to promote the continuous improvement of staff skills and performance; to encourage an environment of trust; to respect cultural and economic diversity; and to preserve the historic character of the community.

The Select Board, as the chief policy makers for the Town of Andover, Massachusetts, will provide leadership in advancing the following primary and supporting values:

VALUE 1. ENSURE THE SAFETY, EDUCATION, AND WELL-BEING OF THE COMMUNITY

- 1.1 Protect the safety of persons and property
- 1.2 Maintain the high quality of education for all
- 1.3 Maintain the Town's infrastructure
- 1.4 Promote public health programs and awareness
- 1.5 Manage the impact of non-municipal public utilities
- 1.6 Support human/community services
- 1.7 Ensure compliance with regulatory requirements
- 1.8 Identify and promote economic opportunities

VALUE 2. BE A LEADER IN THE DELIVERY OF EFFICIENT AND EFFECTIVE QUALITY SERVICES THAT RESPOND TO COMMUNITY NEEDS

- 2.1 Deliver innovative municipal services
- 2.2 Encourage cost saving initiatives
- 2.3 Assess and prioritize community needs
- 2.4 Maintain the Town's "AAA" bond rating

VALUE 3. PROMOTE THE CONTINUOUS IMPROVEMENT OF STAFF SKILLS AND PERFORMANCE

- 3.1 Recruit, develop and retain a highly skilled workforce
- 3.2 Promote and recognize municipal professionalism
- 3.3 Measure, evaluate, and improve performance

VALUE 4. ENCOURAGE AND ENVIRONMENT OF TRUST AND HONESTY

- 4.1 Uphold high ethical standards
- 4.2 Value teamwork and cooperation
- 4.3 Promote open communication with the public
- 4.4 Solicit citizen participation
- 4.5 Recognize the outstanding contributions of citizens

VALUE 5. RESPECT CULTURAL AND ECONOMIC DIVERSITY

- 5.1 Promote diversity in the workforce and community
- 5.2 Provide services that are accessible, fair, and equitable
- 5.3 Support housing alternatives

VALUE 6. PRESERVE THE HISTORIC CHARACTER OF THE COMMUNITY

- 6.1 Celebrate Andover's unique heritage
- 6.2 Protect and acquire open space

10/6/2003

I.3. POLICY GUIDELINES

POLICY DEFINITION

A course of action, guiding principle, or procedure designed to influence and determine decisions, actions, and other matters.

PURPOSE

In an attempt to enforce good administration through equitable enforcement and continuity of decisions, with the understanding that all matters brought before the Select Board are reviewed on a case by case basis, and with the understanding that the Board, at any time, may determine that a particular policy guideline is no longer applicable to the general good, the Policy Guidelines Handbook will serve as a learning tool for new members, as a reference source for the current Board when determining decisions, and as a sourcebook for the public interested in particular matters.

ADOPTION OF POLICY GUIDELINES

Votes taken at Board meetings fall into two categories: votes specific to one item and not applicable to other actions, and votes that may be applied to future actions. The latter may be adopted as a “policy guideline.”

Ever-mindful of policy implications, votes may be considered as a policy guideline at the request of Board members, staff or the public. Once a request has been made to the Chairman of the Select Board, the item will be placed on the agenda of a future Board meeting. At that time, a policy guideline will be adopted if a majority of the Board so votes.

The Policy Guidelines Handbook will be immediately updated whenever votes taken either establish a new guideline or revise an old guideline.

An annual review of the Policy Guidelines will be initiated by the Chairman.

Decisions on matters coming before the Select Board and policy guidelines established by the Board prior to the adoption of this manual will be considered for insertion in this manual upon review and consensus approval by the current Board.

No hypothetical situation alone will be considered in the adoption of Policy Guidelines.

AUTHORITY FOR THE SELECT BOARD

The Select Board is an elected Board and derives its authority and responsibilities from the statutes of the Commonwealth of Massachusetts, “An Act Establishing A Selectmen – Town Manager Plan For the Town of Andover” (The Charter), and the By-Laws of the Town of Andover.

General References:

- Chapter 41 – General Laws of the Commonwealth of Massachusetts
- Chapter 571 of the Acts of 1956, Selectmen-Town Manager for of Government, as amended.
- Handbook for Massachusetts Selectmen, 1988, Massachusetts Municipal Association (MMA).

ELECTION AND QUALIFICATION

In accordance with the Acts of 1922, Chapter 1, of the Commonwealth of Massachusetts and the Andover Town Charter, the Board shall consist of five duly-elected members, each of whom shall be elected by the registered voters of the Town of Andover to terms of three (3) years. On a staggered basis, two members’ terms shall expire in one year, two the following year, and one in the third year.

Before assuming officials duties, each newly elected member shall be sworn to faithful performance of official duties and responsibilities by the Town Clerk and shall be given a copy of the Open Meeting Law.

VACANCIES ON THE BOARD

When a vacancy occurs in the office of Select Board member, the remaining Select Board members may, at any time prior to the next town election at which a candidate for the vacated office may legally be placed on the ballot, appoint a qualified person to serve as a Select Board member until such election, at which election voters shall elect a Select Board member to serve for the unexpired portion, if any, of the original term.

BOARD AS POLICY-MAKERS

The Select Board shall be considered the makers of policy of the Town government, except as otherwise directed by the Statutes or by the Town Charter. The Town Manager shall be responsible for ensuring that the boards, officers, and representatives of the Town comply with the policy determinations of the Select Board.

I.4. RULES OF ORDER AND PROCEDURE

SELECT BOARD

I.4.1. Organization

Election of Officers – The Select Board shall meet in regular session (See 2, Below) each year on the Tuesday following the annual town election for the purpose of electing its own officers and conducting such other business as may come before it.

Terms of Office – Officers of the Select Board shall serve until new officers are elected, or until their term as Select Board member has expired through resignation or the election of a replacement.

Officers of the Board – From among its members the Select Board shall elect a Chairman, a Vice-Chairman, and a Secretary.

The Chairman – The Chairman of the Select Board presides at all meetings of the Board at which he/she is present. He/She is the ceremonial chief civil officer of the Town. The Chairman, when representing the Select Board, is careful to take only positions on subjects which have been approved by the Board. When necessary to make observations on other matters, he/she is careful to make clear that the opinion expressed is his/her own as an individual Select Board member and not necessarily that of the Board.

The Vice-Chairman – The Vice-Chairman performs the functions of the Chairman in the latter's absence. Should the Chairman resign, the Vice-Chairman automatically succeeds him/her.

The Secretary – The Secretary is responsible for the accuracy of the minutes of the meetings of the Select Board and, when prepared, signs those minutes which become part of the official public records of the Town.

The Recording Secretary – The Select Board retains on a salaried basis a Recording Secretary who is experienced in recording the proceedings of meetings both live and from tape recordings. The Recording Secretary attends all meetings and conference sessions of the Select Board and is responsible for putting minutes of those meetings in **draft form** under direction for the Town Manager for approval of the Board at its next regular meeting.

Liaison with Town Boards and Committees – Each Select Board member is assigned one or more of the Town Boards and/or Committees whose meetings he/she attends when considered appropriate and with those activities he/she maintains current information to be passed on to the Select Board upon request or where the individual Select Board member deems it desirable.

Further clarification of the Select Board member's role as Liaison will be defined in a later section.

I.4.2. Select Board Meetings

Place for Meetings – The designated place for regular and special meetings of the Select Board shall be at the **Andover Town Offices, Bartlet Street, Third Floor Conference Room**, unless otherwise provided by the Board.

Regular Meetings – The Select Board shall meet in regular session on the **First and Third Mondays** of each month at 7:30 p.m. except on holidays or when another day and hour has been fixed by resolution of the Board.

Special Meetings – Special Meetings of the Select Board may be called at the request of three members of the Board or by the Chairman of the Board.

Work Sessions – The Select Board may meet in a Work Session at 7:30 p.m. on the fourth Monday of each month. If necessary, a short, regular business meeting may be held prior to work sessions. Work sessions will be held at the **Andover Town Offices, Bartlet Street, Third Floor Conference Room**, unless otherwise provided by the Board.

The Work Session shall be devoted primarily to any matters regarding which the interchange of information is deemed desirable or essential by the Board and/or Town Manager, and particularly preliminary to discussion and action at the regular meetings of the Board.

No formal vote shall be taken on any matter under discussion nor shall any Board member enter into a commitment with another respecting the vote to be taken subsequently in a regular meeting of the Board; provided, however, that nothing herein shall prevent a polling of the Board or the taking of an informal vote on any matter under discussion.

Agenda procedures shall be the same as for regular meetings except that matters not included on a work session agenda shall be taken up by the Board only after listed agenda matters have been considered. No vote of the Board shall be required to consider a non-agenda item.

Additional work sessions may be held at the request of the Chairman of the Select Board, or of a majority of the Board. It shall be the responsibility of the Chairman of the Board to advise all other members of the Board and the Town Manager of any additional work sessions.

Executive Session – An Executive Session may be convened at the request of the Town Manager or by a majority vote of the Board as part of a regular or special Board meeting. Attendance at the Executive Session shall be limited to the members of the Board and the Town Manager; provided, however, that the Board and/or Town Manager may invite such persons as may be required for advice and information. Executive Sessions may be called solely for the following purposes:

- a. To discuss the “reputation, character, physical condition or mental health rather than the professional competence” of a particular individual. A governmental body shall hold an open meeting if the individual involved request that the meeting be open.
- b. To consider the discipline or dismissal of, or to hear complaints or charges brought against a public officer, employee, staff member, or individual. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open.
- c. To discuss strategy with respect to collective bargaining or to litigation, if an open meeting may have detrimental effect on the bargaining or litigating position of the governmental body; and to conduct collective bargaining sessions or contract negotiations with nonunion personnel.
- d. To discuss the deployment of security personnel or devices.
- e. To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.
- f. To consider the purchase, exchange, lease or value of real property if an open discussion may have a detrimental effect on the negotiating position of the governmental body with a person, firm or corporation.
- g. To comply with the provision of any general or special law or Federal grant-in-aid requirements.
- h. To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a primary or preliminary screening.

BEFORE holding an executive session for one of the above reasons, the Select Board must first convene in open session for which notice has been given. A majority of members must vote to go into Executive Session, and the vote of each member must be a roll call recorded in the minutes.

The presiding officer must specify in the open meeting for which of the above reasons the Executive Session is being held. Before the Executive Session, the presiding officer must state whether the Select Board will reconvene in open session afterwards.

Accurate records must be maintained for all Executive Sessions. At a minimum, the records must set forth the date, time, place, members present or absent, and action taken. According to the law, Executive Session records may remain secret **only** “so long as publication may defeat the lawful purposes of the Executive Session, but no longer.”

Quorum – Three members of the Board shall constitute a quorum. In the event a quorum is not obtained, the member(s) present may adjourn the meeting to a specific date and time. Three affirmative votes shall be required to approve any matter acted upon by the Board except as otherwise provided by the rules of the Board.

Open Meeting Law – All meetings of the Select Board shall be held and conducted in strict compliance with the requirements of the Massachusetts Open Meeting Law. **Each newly-elected Select Board member shall be given a copy of the Open Meeting Law by the Town Clerk and will be required to sign a statement acknowledging that he/she has received it.** (A copy of the Open Meeting Law will be added to the “Reference Section” of the Select Board’s policy notebook.)

Posting of Meetings – It shall be the duty of the Town Manager for all meetings and work sessions of the Select Board to post the notice of the meeting or work session in a conspicuous place in the Town Offices at least forty-eight (48) hours (including Saturdays but not Sundays or legal holidays) before a meeting is to take place. Notice of the meeting is also to be filed with the Town Clerk. Meeting notice must be in “easily readable type” and include date, time and place.

Immediately upon receipt of a request for a special meeting he will make every diligent effort to notify each member of the Board in person, either by telephone or otherwise, of such special meeting. The law allows that in the case of an emergency, defined as “a sudden, generally unexpected occurrence or set of circumstances demanding immediate action,” an open meeting may be held even though notice was not posted in time. Notice of such meetings should still be posted as much in advance of the meeting as possible.

The Town Manager shall also publicize each meeting or work session in the newspaper of general local distribution.

Recording of Meeting – Any person in attendance at an open meeting may record the meeting by any means of sonic reproduction, including videotaping, provided that there is no active interference with the conduct of the meeting. If requested, persons intending to make such recordings must so declare.

Suspension of Rules – Any provision of the rules of the Select Board not governed by State Statute or otherwise governed specifically by the Rules of the Board may be temporarily suspended by a majority of the full Board.

I.4.3. Agenda

Preparation of Agenda for Board Meetings - The agenda for a meeting will be prepared by the Town Manager after conferring with the Chairman and/or other members of the Board. The agenda will close at 4:30 P.M. on the third day before the meeting, excluding Saturdays, Sundays and legal holidays, and no changes to it shall take place there-after except as follows:

Any matter coming to the attention of the Town Manager or a member of the Board after the above-stated closing time and considered to be an emergency matter may be included on the agenda. The Chairman of the Board will be notified of any such changes.

Consideration of matters of a non-emergency nature may be allowed at the discretion of the Chairman, if permitted under the Open Meeting Law, but may be tabled until the next regular meeting.

Order of Agenda – The business of all regular meetings of the Select Board shall be transacted in the following order:

Select Board Agenda Outline

- I. Call to Order/Roll Call
- II. Opening Ceremonies
 - A. Moment of Silence/Pledge of Allegiance
- III. Communications/Announcements/Liaison Reports
- IV. Citizens Petitions and Presentations
- V. Public Hearing(s)
- VI. Regular Business of the Board
- VII. Consent Agenda
 - A. Licenses and Permits
 - B. Appointments and Re-Appointments
- VIII. Approval of Minutes from Previous Meetings
- IX. Sewer Commissioners (if applicable)
- X. Adjournment.

Communications/Announcements/Liaison Reports – Under this heading, Select Board members may bring up matters of concern to them for brief discussion and possible later placement on the agenda of a scheduled meeting, if permitted under the Open Meeting Law.

Special Rule for certain Consent Agenda Items – the names of all Appointees and Re-Appointees and the names of all new license and permit applicants (but not annual renewals) shall be included in the agenda posted through the Town Clerk's Office, and on the Meeting Agenda and shall be posted on the Town's web site.

The Board members shall review the Agenda items designated in the preceding paragraph prior to the meeting in which they will be voted. Such items which require further discussion by the Board will be identified to the Board Chair prior to the meeting and time will be provided during the meeting for discussion by the Board. Items not identified for discussion prior to the meeting will be moved as printed in the Agenda and published on the web site.

Submission of Proposed Agenda Items – All reports, communications, resolutions or other matters to be submitted to the Board shall be delivered to the Town Manager by the time specified herein for the close of the Agenda, whereupon the Town Manager shall immediately arrange or cause to be arranged a list of such matters according to the Order of Agenda.

The agenda shall be included in the meeting notice to be posted in conformity with the Open Meeting Law, M.G. L. Chapter 30A Sections 18-25, as the same may be amended. The Town Manager shall deliver to each member of the Board and the Town Clerk a copy of the agenda as soon as practical after the time specified herein for close of the agenda.

No action will be taken by the Board on papers circulated for the first time in any regular meeting unless the matter covered is of an emergency and/or routine nature.

Supporting Information – All matters included on the agenda, unless clearly self-explanatory, shall have been preceded by or shall be accompanied by written explanations or descriptive materials; such information to be provided by the sponsor of the agenda item and/or the Town Manager. This background information is intended to aid in the Select Board members' consideration of matters to be brought before the Board.

The Town Manager will also provide the Board with weekly memoranda and/or monthly reports containing information pertinent to the responsibilities of the Board in order to keep the Select Board members informed or to reduce the amount of inconsequential matters on the weekly agenda.

Distribution of Agenda – Copies of the agenda shall be made available to the recording secretary, media and the public concurrent with its delivery to the members of the Select Board. A sufficient number of copies of the agenda shall also be available to the public at the Board meetings. Copies of additional documentation pertaining to items on the agenda shall also be made available to the public at Board meetings. Determination of pertinent items shall be made by the Chairman and/or the Town Manager.

Town Manager Recommendations – All agenda matters relating to the administration of the Town including licensing and permits shall be acted upon by the Board only when accompanied by recommendations of the Town Manager; said recommendations to be made in writing or orally and made a part of the official record of the Board.

Citizens' Petitions and Presentations –

A. Petitions – The Select Board reserves the right to defer action or comment on any matter brought before the Board as part of the Citizens Petitions section of a meeting agenda.

At the Chairman's discretion, and in general to allow full and fair discussion of items previously placed on the agenda, the time of unannounced citizens petitions may be limited.

Matters brought before the Board relating to the administration of the Town shall be referred to the Town Manager for necessary or appropriate action in each individual case.

B. Complaints – All complaints involving Town policies shall be acted upon by the Board when appropriate and, except in the most unusual cases, such action shall be preceded by a report and recommendation of the Town Manager who shall have been given ample opportunity and time in which to investigate and render a report.

C. Further clarification of this section will be made in a later section.

Agenda for Special Meetings – Only matters set forth in the notice of special meetings shall be discussed and/or acted upon during such a meeting. **This provision may not be suspended.**

(Section I.4.3 Amended August 9, 2010)

I.4.4. Miscellaneous

Public Records - State law holds to a broad definition of public records, but generally includes practically all information the Board and the Town staff produces or receives. Exceptions to this are spelled out specifically in the Freedom of Information Act. If a record is withheld, however, the burden is on the withholder to prove that the information it contains is covered by one of the following exceptions:

- A. Records related solely to the Board's internal personnel rules and practices (the Board must show, however, that withholding these records is necessary to the proper performances if its duties)
- B. Personnel and medical files or information.
- C. Any other material related to a specifically named individual that would constitute an unwarranted invasion of personal privacy if disclosed
- D. Certain memoranda or letters relating to policy positions that are being developed (not including reasonably completed factual studies or reports on which policy positions may be based).
- E. Investigatory materials that could prejudice effective law enforcement if released.
- F. Proposals and bids to enter into any contract or agreement (these are subject to disclosure, however, after they are opened publically or after the time for receipt of bids has expired).

- G. Appraisals of real property acquired or to be acquired until either a final agreement is entered into or lawsuits over the appraisal are completed.
- H. The names and address of anyone referred to in applications for licenses to carry or possess firearms or firearms identification cards. The names and addresses of people who sell or transfer firearms, rifles, shotguns, machines guns or ammunition are also exempt from the public records law.

If a Select Board member is in doubt about whether a particular document is public, he/she should consult the Town Clerk, Town Counsel or the public records section of the Secretary of State's office, which has the authority to determine whether a record is public.

Town Employee Appointments – The Select Board may vote on confirmation of appointments of Town employees by the Town Manager to positions below the level of department head at the same meeting at which any such appointment may be proposed.

All other appointments shall be introduced at a regular meeting of the Board, but no action shall be taken until the next regular meeting of the Board.

Town Board / Committee Appointments – As provided in the Town Charter, the Select Board shall appoint a Zoning Board of Appeals, in addition to the Town Manager, Voting Registrars other than the Town Clerk, and the Town Accountant.

The Town Manger shall appoint, subject to the approval of the Select Board, all other officers, boards, committees and employees of the Town. Further clarification of this procedure will be dealt with in a later section.

Transfer from Reserve Fund – Copies of each request for transfer from the Reserve Fund submitted to the Finance Committee by the Town Manager shall be furnished to each member of the Board.

Changes in Town Organization – The Town Manager shall furnish the Select Board with proposals for any changes in Town organizations before they are put into effect. This is for the purpose of keeping the Board informed of matters which, although a responsibility of the Town Manager, inevitably comes to the attention of the Select Board members through other channels.

Conflict of Interest – In those cases in which a matter brought up for consideration by the Select Board conflicts with the personal pecuniary interests of any individual Select Board member, it is the responsibility of that Select Board member not only to abstain from voting on the matter, but also to refrain from participation in the discussion of it for the purpose of influencing the vote of the Board.

Participation in Town Meetings – On those articles of the Warrant for a Town Meeting upon which the Select Board has taken a position, even though that position was decided only by a

single majority vote, individual Select Board member shall refrain from presenting arguments opposing the Board's position on the article.

However, a member who proposes to vote otherwise on an article may, as an individual citizen, go upon the floor of the Town Meeting and, upon recognition by the Moderator, speak from there.

It is also expected that the Town Manager will refrain from taking an opposing position to that of the majority of the Board. The Town Manager may, however, also address Town Meeting from the floor, presenting himself as an individual citizen.

Board Policy Guidelines – In the event that the Select Board chooses to adopt, eliminate or revise a written policy guideline, the procedure established at the beginning of this guidebook shall be followed. In addition, each policy guideline or revision to any guideline, shall be assigned a short title and the date on which any action was taken.

The Town Manager shall maintain an index of all Board policy guidelines as well as a file on all such guidelines. Copies of policy guidelines adopted by the Select Board shall also be placed on file with the Town Clerk and distributed to all appropriate staff and committees.

I.5. INTERNAL OPERATION – MEMBERS’ INTERACTION

The Select Board functions as a body in all policy decisions and all other matters as required by law or determined by vote of the Board in formal Session.

1. The Town Manager shall communicate to the Select Board, via memo on Friday, matters of interest to the Board and/or items pertaining to agenda subjects for the upcoming meeting.

Any individual member of the Board may also take this opportunity to communicate additional items by including memos and other supporting material within the Town Manager’s “packet.” Memos may be submitted to the Town Manager’s office via phone or writing no later than Friday noon.

2. Board members will keep each other informed of all investigations they are conducting or issues they are pursuing that are the concern of the entire Board.
3. Board members agree not to surprise each other by last minute agenda items about which others have no warning or knowledge except in the case of emergency items or those of a strictly routine nature which need action prior to the next schedule meeting.

Whenever possible, Board members who wish to take issue with another member’s conduct, behavior, or procedures will do so first privately with the member concerned or will notify him/her prior to first doing so at a public meeting.

4. When individual members make a request of the Manager for information of concern to the whole Board, the Manager is to report back to the whole board, not only to the member raising the question.

I.6. PUBLIC COMMENT AT SELECT BOARD MEETINGS

All regular and special meetings of the Select Board shall be open to the public. Executive sessions will be held only as prescribed by the statutes of the Commonwealth of Massachusetts.

The Board desires citizens of the Town to attend its meetings so that they may become better acquainted with the operations and programs of the Town. In addition, the Board would like the opportunity to hear the wishes and ideas of the public.

In order that all citizens who wish to be heard before the Board have a chance and to ensure the ability of the Board to conduct the Town's business in an orderly manner, the following rules and procedures are adopted:

1. At the start of each regularly scheduled Board meeting except workshops, individuals or group representatives will be invited to address the Board. The Chairperson shall determine the length of the public participation segment.
2. The presiding Chairperson may limit a speaker's time provided the same limit will apply to all speakers who wish to be heard on the same subject without regard to viewpoint.
3. Improper conduct will not be allowed. Remarks containing obscenities, remarks which constitute threats or fighting words, remarks which are likely to provoke a violent reaction, and remarks which are known to be false are considered improper and will not be allowed. If a speaker persists in improper conduct or remarks, the Chairperson may terminate that individual's privilege of address.
4. All remarks will be addressed through the Chairperson of the meeting.
5. Speakers may offer such criticisms of Town operations and programs as concern them, but in the public comment session the Board will not hear personal complaints regarding Town personnel, except with respect to the Select Board, Town Manager, Town Accountant, the Zoning Board of Appeals, Officers and Registrars of Voters and Department Heads. Administrative channels are the proper means for disposition of legitimate complaints involving Town employees.
6. Written comments may be presented to the Board at the meeting for the Board members' review and consideration at an appropriate time.

I.7. SELECT BOARD RESIDENT COMPLAINT RESOLUTION POLICY

The intent of this policy is to ensure quality service and timely resolutions to conflicts for all residents of Andover.

Internal Department Conflict Procedure

1. Department/Division Heads are responsible for the training of their staffs to ensure that all residents are given consistent, responsible and professional service and that these services abide by Federal, State and local laws and regulations.
2. Department/Division Heads are responsible for remedying conflicts that occur in their offices with residents of the Town.
3. If a conflict can not be resolved at the Department/Division Head level, then a resident shall bring the conflict to the attention of the Town Manager. If the Town manager deems that the Department/Division Head has not been noticed of the conflict, then the Town Manager or a designee shall notify and refer the conflict to the Department/Division Head directly. The Department/Division Head will report back to the Town Manager within 24 hours the result of the resolution.
4. If the problem is not resolved at the Department/Division Head level, then the Town Manager shall intercede and mediate the conflict to a resolution.

Select Board Customer Conflict Procedure

1. If a resident appears before the Select Board with a customer complaint, then the Chairman of the Select Board will inquire whether that person has followed the Select Board's Customer Complaint Resolution Policy.

The Chairman will encourage the person to follow the above Select Board's policy first. The Chairman will inform the person that if he/she is not satisfied with the resolution then they may request, in writing, to appear on a future Select Board agenda under "Citizen Petitions and Presentations". Such requests should contain the following information to help expedite a resolution to the complaint:

- Name, address and telephone number, and/or e-mail address
 - A brief description of the problem/conflict.
 - A brief description of what has already occurred in the resolution process.
2. If the resident appears before the Board with a complaint but has not provided the Board with a written request then the Chairman should request that the person submit the written request per Select Board's policy. The Town Manager will place the issue on the next Select Board's agenda for Board discussion under "Citizen Petitions and Presentations".
 3. Requests must be received by the Town Manager's Office by noon, on the Thursday before the scheduled Select Board's meeting in order for the issue to appear on the

agenda. The request will be placed in the Select Board's weekly information packet for review before the meeting.

I.8. HEARING PROCEDURES BEFORE THE BOARD

Hearings before the Select Board generally shall be conducted in accordance with the following procedures. Variations may be necessary to comply with statutory requirements applicable to particular matters.

1. Agenda - Upon receipt of a request for a hearing, the hearing will normally be included in the agenda for a regular meeting, under the appropriate section.
2. Notice - The Town Manager will be responsible for the advertising of the hearing and the notification of interested persons, such as abutters, as required by statute or as directed by the Chairman in the absence of statutory requirements.

Hearing Procedures:

1. Hearings will be held in open session unless otherwise voted by the Board in compliance with the Open Meeting Law.
2. The Chairman will announce the nature and the purpose of the hearing, identify the particular matter, and recite the notice given. Where appropriate, the Chairman will outline the procedure to be followed.
3. The order of presentation will be:
 - a. Statements by proponents.
 - b. Receipt of recommendations from any Town officer or department.
 - c. Statements by opponents.
 - d. Rebuttal statements by proponents and opponents.
 - e. Where appropriate, questions may be asked of any person making a statement after the statement is finished. Questions will be accepted first from members of the Board.
4. The Board may permit persons not desiring to speak to record themselves as in favor or against the proposal. At the discretion of the Board, a show of hands may be taken.
5. At the conclusion of the hearing, the Board may render its decision or take the matter under advisement, announcing the intended date of decision.

I.8.1 PROCEDURE FOR CONDUCTING UTILITY HEARINGS

1. Open hearing upon petition of Massachusetts Electric Company, New England Telephone & Telegraph Company, etc. for permission to install underground conduit or locate/relocated poles.
2. Confirm that notices have been sent to abutters, as shown on plan of petitioner(s) and that the plan is on file with the Public Works Department.
3. Recognize the representative of the utility company
4. Accept verbal or written recommendation from DPW representative, Town Manager, or other Town officer.
5. Questions from the Select Board
6. Questions from the public
7. Discern if anyone else present wishes to be recorded as in favor or in opposition to the petition
 - Allow questions if applicable
8. Close hearing

I.8.2 STREET ACCEPTANCES

Prior to the acceptance of any street by Town Meeting vote, the Select Board shall hold a public hearing following notification of applicant, property owners, mortgagees, and abutters. The purpose of the public hearing is to determine whether or not the applicant has fulfilled all the requirements for street acceptance according to approved procedures. These procedures, for clarification and reference, follow:

12/9/86

I.8.3 STREET ACCEPTANCE - GUIDELINES AND PROCEDURES (Town Meeting 2008)

The following procedures are to be followed by those developers wishing to submit streets to the Town for acceptance at Town Meeting. It is important that developers, attorneys, and engineers review, understand and follow these procedures in order to ensure an orderly and correct process and eliminate delays to all parties.

Final approval of a definitive subdivision plan by the Planning Board does not constitute the laying out or acceptance by the Town of the streets shown on the plan, nor does final approval automatically entitle the streets to acceptance. The acceptance of a street within a subdivision as a Town way is the financial and legal responsibility of the developer.

There are a number of legal documents and notices pertaining to street acceptance that are to be filed with the Town for review and approval prior to the Select Board's Layout Meeting. In addition all physical (construction) work on the street must have been completed and inspected by the Department of Public Works prior to the Select Board's Layout Meeting.

The developer must submit the following documents and materials:

1. Submit directly to Town Counsel (Carol McGravey, Esq.):

- a. The street deed - An instrument suitable for recording running to the "Inhabitants of the Town of Andover". The street deed shall provide a running description of the street by courses and distances, including bounds and markers, or shall provide such other description acceptable to Town counsel and the Department of Public Works.
- b. Instruments suitable for recording running to the "Inhabitants of the Town of Andover" for all easements which are a part of the street (drainage, water, sewer). These easements must be signed by all parties having any interest or rights (other than the Town) in such easements and all easements and restrictions to be conveyed to the town as shown on the subdivision plan.
- c. A Quitclaim Deed for open space parcels (if applicable) in form acceptable to the Andover

Conservation Commission. (Please contact the Commission for proper form).

- d. Certificate of Compliance showing that all conditions imposed upon the street by the Conservation Commission have been satisfied. (Please contact the Commission for proper form).
- e. Certificate(s) signed by the developer's attorney certifying that all necessary parties have signed all street deeds, easement instruments, and open space deeds. A certification signed by an attorney licensed to practice law in the Commonwealth of Massachusetts as follows:

“With regard to the proposed subdivision known as _____, the law firm of _____ and I hereby certify to the Town of Andover that with the conveyance to the Town of Andover of the following documents listed below and enclosed herewith, the Town of Andover shall have clear, record and marketable title, free of all liens and encumbrances to the:

- (1) fee in the street known as _____; and
- (2) the fee in all open space parcels to be conveyed to the Town as shown on the subdivision plan; and
- (3) all easements and restrictions to be conveyed to the Town as shown on the subdivision plan.

The documents are: _____”

- f. Names and Addresses of each property owner and mortgagee having rights or interests in the streets, easements, and open space, and the names and addresses of each abutter thereto, along with a Request for a Public Hearing by the Select Board for Street Acceptance pursuant to Massachusetts General Laws, Chapter 82, Section 22.
- g. Certificate of Notice signed by the developer's attorney that all property owners, mortgagees, and abutters have been notified of a Public hearing pursuant to the provisions of Massachusetts General Laws, Chapter 82, Section 22 with a return to the Board not less than seven (7) days before the public hearing, said notice to be in the following form:

"Notice is hereby given that the Select Board of the Town of Andover will hold a public hearing on ____ (date) ____ in the ____ (location) ____ on the matter of the layout of ____ (name of street) ____ as a public way."

2. Submit directly to the Department of Public Works (Brian Moore, P.E.):

- a. Two (2) Mylar plan copies and two (2) paper copies showing the street(s) to be accepted. This plan shall be entitled "Street Acceptance Plan" and shall show the street(s) and all appurtenant easements by courses, distances, and bounds. (Contact the Public Works Department for details).
- b. As-built utility plan showing all information required under Section VII.W. of the Subdivision Rules and Regulations. (Contact the Public Works Department for details).
- c. Copies of street deed(s), quitclaim deeds, and easement instruments as provided to Town Counsel.

3. Submit directly to the Planning Department (Jacki Byerley):

- a. Certification signed by the developer's attorney that all documents, notices, and plans required under numbers 1. and 2. above have been submitted to the appropriate parties. This certification shall include the date on which the materials were delivered.

SPECIAL REQUIREMENTS:

1. For streets within a subdivision, title to which or any portion of which has been registered under Massachusetts General Laws, Chapter 185 by the Land Court, the developer shall submit an easement reading as follows:

"An easement running to the Inhabitants of the Town of Andover for all purposes of a public way or street including the right to install, repair, maintain, alter, and operate sanitary sewerage, drainage, water lines and other appurtenant utilities in, into, upon, over, or across said land as shown on Land Court Plan No. _____ (sheets _____) filed in the Essex County North District Land Registration Office in Land Court. Book No. _____, Page _____. All of said boundaries are determined by the Court to be located as shown on Subdivision Plan No. _____, drawn by _____, dated _____, as modified and approved by the Court, filed in the Essex County North District Land Registration Office, a copy of which is filed with Certificate of Title No. _____."

2. All fees and taxes owned to the Town including all property taxes owned to the town for open space lots, if any, must be paid in full before the streets will be recommended for acceptance. A municipal lien certificate for the property must be submitted by the applicant..
3. Within thirty (30) days of Town Meeting acceptance of the street(s) the Planning Department will file the appropriate deeds and instruments at the Registry of Deeds. The developer is responsible for the costs associated with recording. The Planning Department will contact the developer to make arrangements for checks and payments. All checks and payments shall be delivered to the Planning Department prior to the Select Board's Layout Meeting.

IMPORTANT NOTICE:

The developer will be given opportunity to correct or make any necessary changes to legal documents and notices after review by Town Counsel and the Town Engineer. A date will be given by which all revised documents must be returned for final review, after which no new submissions may be made.

The Select Board will hold a hearing to consider "laying out" those streets that are scheduled to be voted on at Town Meeting. The developer will be notified in advance of the date of the Layout Meeting. During the layout hearing reports and recommendations will be made by the Public Works Department and the Planning Department with respect to the completion of a street (construction and documents). A negative recommendation from either the Public Works

Department or the Planning Department means that the Select Board will not vote to lay out the street, and consequently the street cannot be voted on at Town Meeting.

It is incumbent upon the developer to ensure that all performance guarantees (bonds) are valid and in effect through the date of Town Meeting, and if not must request an extension of time from the Planning Board.

I.9. EMPLOYEES OF THE BOARD

The Select Board shall appoint a Town Manager, as provided in Section 6 of the Town Charter, who may thereafter be removed as provided in Section 8.

Furthermore, the Charter provides that the Board also appoints a Zoning Board of Appeals, Voter Registrars other than the Town Clerk, and the Town Accountant. These officials may, after such notice and hearing as the Board may deem advisable, remove any person so appointed for cause.

The following section briefly describes the appointment, powers, duties and qualifications, where applicable, of these appointments.

I.9.1. TOWN ACCOUNTANT

Work Definition:

Professional accounting work of a supervisory and participatory nature with responsibilities for maintaining financial records and supervising and controlling expenditures of all Town funds; all other related work as required.

Distinguishing Characteristics:

Appointed by the Select Board, works under the administrative direction of the Town Manager, and under policies established by the Select Board but with duties and responsibilities as defined by the General Laws of the Commonwealth, By-Laws of the Town, and GAAF and UMAS standards.

Performs a variety of complex and highly responsible duties in ensuring that all municipal transactions conform to law and to good municipal account practices.

Supervises five or fewer employees.

Must be aware that errors could be costly in terms of improperly authorized expenditures.

Makes frequent contact with all Town departments, and relevant staff officials and bureaus.

Example of Work:

Maintains Town and School financial records to insure compliance with applicable state, federal, and local laws and regulations.

Supervises expenditures of all Town funds; encumbers purchase orders, examines all vouchers, department bills and payrolls and, as approved, draws warrants on the treasury for approval.

Assist in annual state audits; prepares monthly departmental statements of cash receipts, expenditures, and unexpended balances.

Maintains subsidiary and control accounts for all Town and school grants and revolving accounts; insures that all monies are expended in accordance with the particular grant documents and that there are sufficient funds to make payment.

Compiles and submits year-end financial statements; makes a comprehensive annual report indicating the year's transactions and financial position of the Town at close of the year.

Serves as secretary (ex-officio) of the Retirement Board; responsible for the daily operation of the retirement system.

Education and Experience:

College graduate with a major in accounting and five years professional accounting experience, including experience in municipal accounting; or any equivalent combination of education and experience.

Knowledge, Ability and Skill:

Thorough knowledge of municipal accounting principles and practices and budgetary functions; considerable knowledge of the organization and operation of Town departments and of legal controls over municipal finance in the Commonwealth. Ability to analyze and interpret accounting data and to present reports of findings and recommendations. Ability to meet and deal with people appropriately and effectively.

I.9.2. TOWN MANAGER

Work Definition:

Administrative and supervisory work in directing the activities of all of the Town's Departments, commissions, boards and officers except those excluded by law; all other related work as required.

Appointment:

The Select Board shall appoint a Town Manager in accordance with the Town Manager Act of the Town Charter. The Select Board shall set his compensation, subject to Town Meeting appropriation, and such other terms and conditions of employment that they may, from time to time, deem advisable. Such terms and conditions shall not be in conflict with the Town Manager Act, Town By-Laws or any other special or general law.

Powers and Duties:

The Town Manager shall have the powers and duties as delineated in the Charter and as required by those sections of the General Laws relating to Towns with Town Manger forms of government. The Town Manager shall perform such other duties that, from time to time, may be requested by vote of the Board. He shall attend all meetings of the Board, shall keep the Select Board fully advised of the need of the Town, and shall recommend to the Select Board for adoption such measures requiring action by them or by the Town as he may deem necessary and expedient.

Distinguishing Characteristics:

Exercise administrative authority over the operations of the Town of Andover in conformance with policies and objectives set forth by the Select Board and laws of the Commonwealth.

Supervises approximately fifteen administrators and department heads with final responsibilities for more that 500 full time employees.

Performs professional municipal management duties of a highly complex and responsible nature in planning and directing the Town's activities.

Exercises considerable judgment in making administrative decisions when carrying out Town Policy and overseeing municipal activities by exercising authority and accepting responsibility for planning, operation and oversight.

Makes frequent contacts with local, state, and federal officials, local business and community leaders, town employees and department heads, and the general public.

Must be mindful that errors in administration and judgment could have far-reaching effects on the Town's ability to deliver services and/or have direct financial and legal repercussions.

Example of Work:

Plans, directs and supervises the Town's departments, commissions, boards and offices; serves as legislative liaison with various state and federal organizations; establishes goals and analyzes and evaluates programs.

Prepares, documents and presents the Town's annual budget; prepares, prints and distributes the Town's Annual Report and warrants for Annual and special Town Meetings.

Acts as the Town appointing authority; bargains with employee unions.

Performs a vital public relations function for the Town in dealing with the complaints, criticism and suggestions of citizens, business, industry developers and builders.

Education and Experience:

Master's degree in public administration desirable; five years experience as a Town Manager or Assistant Town Manager; or equivalent combination of education and experience.

Knowledge, Ability and Skill:

Working knowledge of municipal finance, budgets, personnel policies and practices, collective bargaining, state and federal agencies (as they relate to municipal government) and Town By-Laws and State laws. Ability to direct the work of professional and non-professional subordinates. Ability to represent the Town appropriately and effectively. Ability to perform organizational development tasks as needed.

I.9.3. BOARD OF REGISTRARS

Every city and town must have a Board of Registrars or Election Commission whose responsibilities include registering voters, making local listings of residents, certifying nomination papers and petitions, processing absent voter applications, and administering election recounts. The following describes the Board of Registrars as it applies to the Town of Andover – how the members are appointed, how the Board is structured, how it functions, and what qualifications apply to the individual members.

Board of Registrars with Town Clerk as Member

(Chapter 51, § 15 MGL)

The Board of Registrars in the Town of Andover is a four member Board of which one member is the Town Clerk. The other three members are appointed by the Select Board from lists submitted by the town committees of the two leading political parties (Democrats and Republicans). If no list is submitted within 45 days after the party chairman is notified by the Select Board by certified mail, and appointments are made by the Select Board without reference to the lists.

Typically, one member is appointed (or reappointed) each February or March for a three-year term to begin April 1. The Town Clerk becomes a member of the Board automatically as he/she is sworn in to that position.

Chapter 51, § 18 and 19 – The Board of Registrars must always contain representatives of the two leading political parties (Democrats and Republicans) and no more than two members of each. The party enrollment of the Town Clerk affects the membership of the Board. If the appointment of the clerk would cause more than two members to be from the same party, the appointed member of the registrars with the shortest term left to serve and enrolled in the same party as the clerk would be removed by the Select Board (after written notice and hearing) and a new member would be appointed from a different party than that of the clerk.

The General Laws specifically outline qualifications for Registrars and enumerate other offices they may or may not hold. In addition, there are positions which registrars should avoid holding due to possible conflict of interest. Registrars must meet the following qualifications:

Qualifications:

51 § 25 - Must be a registered voter in the Town of Andover.

51 § 25 - Must hold no other public office by public election or direct appointment by the Select Board in the Town in which he/she is registrar.

51 § 25 - Must hold no public office other than justice of the peace, notary public, or militia officer by public election or appointment by the federal government or by the Commonwealth.

51 § 25 - If a registrar accepts any such appointed or elected office, he/she may no longer serve as a registrar and the office is vacated. A registrar may run for and hold office as a member of a home rule charter commission or town meeting member.

51 § 23 - Must subscribe an oath to faithfully perform the duties of registrar.

Registrars should not serve as election workers. However, if a registrar has served as an election worker, he/she should disqualify him/herself should a recount occur. It should be kept in mind that in such a case the Select Board should temporarily fill any vacancy in the Board so as to maintain the representation of political parties for the recount. It is the sound practice to avoid potential conflicts of interest such as those which might occur if a person were both an election officer and a registrar.

Vacancies:

Vacancies on the Board of Registrars which occur between the regularly appointed terms may be filled in two ways:

51 § 15 - An appointment may be made in the same manner as the original appointment, but only for the remainder of the vacated original term. Vacancies in the Town of Andover are filled by the Select Board from a list of three voters from Andover submitted by the town committee of the political party from which position is to be filled.

51 § 20 - A temporary appointment to fill a position for a limited time may be made by the Select Board upon written request of a majority of the Board of Registrars. This type of appointment may be made in cases where the vacancy occurs because of the registrar's absence from the Town of Andover, retirement, death, or inability to perform his/her duties.

Assistant Registrars and Absent Registration Officer:

51 § 22 - Registrars may appoint assistant registrars for one-year terms which begin on April 1, to assist the registrars as they deem best. The assistant registrars must equally represent the two leading parties. Assistant registrars are subject to all of the same qualifications as registrars.

51 § 22 - Registrars may appoint temporary assistant registrars from time to time, to assist in street listing and in the registration of voters. They must equally represent the two leading political parties.

51 § 22A - Registrars may appoint absent-registration officers to assist them in registering physically disabled voters. They must equally represent the two leading parties.

51 § 24 - Registrars may have their duties performed by the assistant registrars under their direction.

51 § 33 - All acts of a single registrar, assistant registrar, or absent-registration officer are subject to acceptance of the full Board of Registrars.

51 § 42E - Registrars must appoint an assistant registrar to be available to each high school to register eligible students and employees of the high school. An assistant high school registrar may register students from any city or town. Special "out of town" voter registration forms must be used to register students who reside outside the registrar's city or town. Names of three employees of each school are submitted to the registrars by the principal as possible candidates.

I.9.4. ZONING BOARD OF APPEALS

The Andover Zoning Board of Appeals consists of five (5) regular members and four (4) associate members, from whose membership a Chairman and Clerk are chosen. Other officers may be chosen as the Board of Appeals deems necessary. Meetings/hearings are held on the first Thursday evening of the month, with deliberation meetings the Saturday immediately following.

To insure consideration of all citizens interested in serving on the Zoning Board, impending or actual vacancies on the ZBA will be announced in the local papers, and public interviews will be held by the Select Board.

In general, the interviews will take place at ten-minute intervals prior to a regular meeting of the Select Board.

Those persons not receiving an appointment after the first interview may request consideration for future openings, but will not be required to come before the Board for further interviews.

Public consideration and announcement of the appointment will generally take place at the first regular meeting of the Select Board following the date of the interviews.

It is highly desirable that the Zoning Board of Appeals should include persons with various specialties, including: engineering background, legal training and experience, environmental and/or conservationist experience, and architectural and/or design training.

Procedures for the Zoning Board of Appeals, revised in 1981 and under which the members operate follow.

II. TOWN OF ANDOVER MUNICIPAL VEHICLE POLICY
Adopted by the Select Board on January 7, 2008
Amended May 3, 2010, March 12, 2012 and July 21, 2014

II.1. PURPOSE AND SCOPE

The purpose of this policy is to set forth guidelines for the assignment, use and identification of Town-owned municipal vehicles and for the reimbursement and use of personal vehicles for Town business.

II.2. APPLICABILITY

The provisions of this policy apply to all employees of the Town of Andover. Employees whose employment is regulated by a collective bargaining agreement are subject to those provisions of this policy not specifically regulated by agreement.

II.3. CATEGORIES OF MUNICIPAL VEHICLE USE

Work Use Only – Vehicle is used at work only and remains in town at the end of the employee’s work shift (applies to personnel whose duties require the use of a Town vehicle during their working shift).

Work & Commuting Use – Vehicle is used at work and for commuting back and forth to the employee’s primary residence (applies to certain personnel whose duties require them to be on-call to regularly respond to work during nights and weekends).

24-Hour Use – Vehicle may be used at all times of the day for professional and personal use due to the 24/7 nature of the employee’s duties (applies to certain public safety personnel). (*Amended July 21, 2014*)

II.4 VEHICLE ASSIGNMENT & AUTHORIZATION

1. General Assignment – The general assignment of municipal vehicles to Town employees shall be made based on the specific duties of the position as defined in the position’s approved job description. Department heads who have municipal vehicles available to assist in carrying out specific departmental functions may assign such vehicles in a manner consistent with those responsibilities.

Additionally, under special circumstances (such as when it is anticipated that employees will need to be called back to work) a department head may authorize

certain employees to take home a municipal vehicle for a night or weekend; or longer periods with the approval of the Town Manager.

2. Commuting Use – The assignment of vehicles for “commuting” use may only be authorized by the Town Manager, subject to the approval of the Select Board, after receipt of a written request and justification from a department head and Town Manager. Authorization for commuting use will be considered for employees who require a vehicle for the necessary performance of their job responsibilities. This category of use typically applies to personnel whose duties require them to be on-call to respond to work during nights and weekends on a regular basis. See Appendix A. (*Amended July 21, 2014*)
3. 24-Hour Use – The assignment of vehicles for “24-hour” use may only be authorized by the Town Manager, subject to the approval of the Select Board, after receipt of a written request and justification from a department head and Town Manager. Authorization for 24 hour use will be considered for employees who require a vehicle for the necessary performance of their job responsibilities. This category of use typically applies to certain public safety personnel who are required to rapidly respond to emergencies 24 hours a day, whether they are on duty or off, and regardless of their location. See Appendix A. (*Amended July 21, 2014*)

If an employee is transporting non-Town personnel in a municipal vehicle and is called to an emergency, then the employee will take all reasonable actions necessary to ensure the safety of the passenger for the duration of the emergency.

4. Change of Authorization – The Town Manager may rescind and/or change an existing vehicle assignment and use authorization whenever an applicable position becomes vacant; the authorized use is mis-used; an employee is on leave (paid or unpaid) for longer than thirty (30) days or when the position’s duties are changed to a significant degree to warrant such reassignment. The Town Manager may also seek to change or modify the existing authorized use of a municipal vehicle for any incumbent union employee during collective bargaining. For example, if a position’s on-call response requirement is infrequent, the Town Manager may elect to authorize the employee to have work-only use of a municipal vehicle.
5. Vehicle Replacement - The Town Manager shall obtain approval from the Select Board before authorizing replacement of a vehicle subject to assignment under this sub-section. In the event of attrition, promotion or change in role of a current employee or any additional or expanded position of a town employee in the town organizational structure, the Town Manager shall obtain approval of the Select Board before authorizing use of a Town vehicle for “Commuting Use” or “24 Hour Use.”

II.5. GENERAL RULES GOVERNING MUNICIPAL VEHICLE USE

1. Municipal vehicles may only be used for municipal business and, if applicable, authorized commuting purposes and other approved uses. If commuting use is authorized, then it is limited to travel to and from the employee's residence and place of work. The vehicle should be driven over the most direct route taking into account road and traffic conditions. Other approved uses shall be authorized by the department head.
2. Municipal vehicles other than those designated for 24-hour use are to be used to transport individuals who are engaged in municipal business. Passengers shall be limited to Town employees and individuals who are directly associated with Town work activity.
3. Municipal 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 municipal vehicle.
4. Employees are expected to keep municipal vehicles clean and to report any malfunction or damage to their supervisors immediately.
5. Employees are expected to park such vehicles in safe, legal locations.
6. Employees and passengers must wear seatbelts in municipal vehicles so equipped during operation of the vehicle.
7. Employees must turn the municipal vehicle ignition off, remove keys and lock the municipal vehicle when unattended unless the vehicle is being used in the performance of its duties.
8. Employees shall not operate municipal vehicles under the influence of alcohol, illegal drugs, or other substances which may interfere with effective and safe operation.
9. Employees who operate municipal vehicles must have a valid motor vehicle license issued by the state of their current residence and shall be required to provide annual proof of valid motor vehicle license.
10. Employees who incur parking or other fines in municipal vehicles will be personally responsible for payment of such fines.
11. Employees who are issued citations for any offense while using a municipal vehicle must notify their department head immediately when practicable but in no case later than 24 hours.
12. Any damage to the vehicle must be reported to the department head immediately when practicable but in no case later than 24 hours.

13. An employee who is assigned a municipal vehicle, or is using their personal vehicle for municipal business and who is arrested for or charged with a motor vehicle offense for which the punishment includes suspension or revocation of the motor vehicle license, whether in a municipal or personal vehicle, must notify his or her supervisor immediately when practicable, but in no case later than 24 hours. Suspension or revocation of a motor vehicle license will be grounds for loss of municipal vehicle privileges and/or other disciplinary action.
14. The Town reserves the right to withdraw the privilege of using a municipal vehicle based on the employee's driving record.
15. Smoking is prohibited in all municipal vehicles.
16. During a leave (paid or unpaid) for longer than thirty (30) days, the employee will return the vehicle to their department.

II.6. IDENTIFICATION AND PROCUREMENT OF MUNICIPAL VEHICLES

1. All municipal vehicles, except certain police vehicles, shall be conspicuously marked as a Town of Andover vehicle with the name of the department on both sides of the vehicle and shall have municipal license plates. The Town Manager may grant special exception to this rule if sufficient written justification is presented by the department head. *(Amended July 21, 2014)*
2. All municipal vehicles shall be purchased in accordance with applicable public procurement laws to ensure competitiveness and best price. The Town Manager shall pre-approve all purchases of municipal vehicles.

3. ANDOVER FUEL EFFICIENT VEHICLE POLICY

POLICY STATEMENT

The Town of Andover Select Board, in an effort to achieve long range energy efficiency, hereby adopts the revised Andover Fuel Efficient Vehicle Policy which will result in reduced fuel consumption, energy costs and carbon emissions. Under the policy, all Town and School departments and divisions shall purchase Fuel Efficient Vehicles when they are available and financially viable and meet the operational needs of the Town.

APPLICABILITY

This policy applies to all Town and School divisions and departments of the Town of Andover.

GUIDELINES

As of 10/17/11, Fuel Efficient Vehicles are defined by the US Environmental Protection Agency as having combined city and highway MPG no less than the following:

- 2 wheel drive car: 29 MPG
- 4 wheel drive car: 24 MPG
- 2 wheel drive small pick-up truck: 21 MPG
- 4 wheel drive small pick-up truck: 19 MPG
- 2 wheel drive standard pick-up truck: 17 MPG
- 4 wheel drive standard pick-up truck: 16 MPG
- 2 wheel drive sport utility vehicle: 21 MPG
- 4 wheel drive sport utility vehicle: 18 MPG

Hybrid or electric vehicles in these vehicle classes automatically meet these criteria.

The Plant and Facilities Department will maintain a vehicle inventory list for non-exempt vehicles, updated annually, and shall develop a plan for replacing these vehicles with vehicles that meet the minimum combined MPG requirements of the Green Communities Program.

See Appendix for current inventory.

The EPA maintains a database on vehicle fuel efficiency that is updated occasionally throughout the year, as new models are released. As increasing numbers of fuel efficient vehicle models are released, the minimum combined MPG requirements of the Green Communities Program may be revised. This policy may be updated from time to time to reflect any changes to the MPG requirements. The latest fuel efficiency MPG ratings are available through Massachusetts Department of Energy Resources Green Communities Program.

FUEL EFFICIENT VEHICLE REPLACEMENT PLAN

The Town of Andover, under this policy, requires that each department develop a five year plan to replace non-exempt vehicles with fuel efficient vehicles as these vehicles are removed from service. The annual Capital Budget is the process that will be used to replace vehicles, and set goals for when the existing fleet will be replaced.

QUESTIONS / ENFORCEMENT

All Town and School vehicle purchases must be approved by the Plant and Facilities Director to ensure compliance with this policy. The policy will be

enforced by the Town Manager with the assistance of the Plant and Facilities Director.

DEFINITIONS

Combined city and highway MPG (EPA Combined fuel economy): The EPA combined fuel economy MPG ratings are derived from a combination of 43% city and 57% highway miles and is calculated as follows: $=1/((0.43/\text{City MPG}) + (0.57/\text{Highway MPG}))$

More information can be found on the United States Department of Energy Efficiency and Renewable Energy website www.fueleconomy.gov

Drive System: The manner in which mechanical power is directly transmitted from the drive shaft to the wheels. The following codes are used in the drive field:

- AWD = All Wheel Drive: four-wheel drive automatically controlled by the vehicle powertrain system
- 4WD = 4-Wheel Drive: driver selectable four-wheel drive with 2-wheel drive option
- 2WD = 2-Wheel Drive

Heavy-duty truck: A vehicle with a manufacturer's gross vehicle weight rating (GVWR) of more than 8,500 pounds. By definition, all trucks over ½ ton are exempt from this policy.

Vehicle Exemptions:

- Heavy-duty vehicles such as fire-trucks, ambulances, and public works trucks over ½ ton that meet the definition of Heavy-duty vehicle are exempt from this criterion.
- Police cruisers, passenger vans and cargo vans are exempt from this criterion as fuel efficient models are not currently available. However, we commit to purchasing fuel efficient options if they become commercially available. Police and Fire department administrative vehicles are NOT exempt and must meet fuel efficient requirements.
- This policy does not apply to other equipment, such as backhoes, front-end loaders, sidewalk plows, lawn mowers, etc.

RELATED INFORMATION:

United States Environmental Protection Agency, Green Vehicle Guide

<http://tiny.cc/greenEPA>

(Section 6.3 added: May 3, 2010)
(Amended: March 12, 2012)

II.7. FRINGE BENEFIT TAX REPORTING

1. Federal and State law requires employers to include “Fringe Benefit Income” on employee W-2 forms submitted to the IRS and DOR. Such fringe benefits include the employee’s use of an employer-provided vehicle for commuting purposes at the \$3.00 per day commuting rate as established by the IRS (subject to any IRS changes). The Town shall use this method for tax reporting purposes.
2. Police and Fire vehicles may be exempt from the fringe benefit income reporting requirements as specified by IRS requirements.

(Subsection 3 deleted July 21, 2014)

II.8. USE OF PERSONAL VEHICLES FOR TOWN BUSINESS

1. Mileage Travel Reimbursement – Employees who “occasionally” use their personal vehicle for authorized work related travel shall be reimbursed according to the mileage rate (rounded down to the nearest cent) as periodically revised by the Town based on the Internal Revenue Service rate for the business use of an automobile.
2. Monthly Travel Allowance – The Town Manager may authorize a monthly travel allowance, or a combination of a monthly travel allowance and a specified mileage rate, to certain employees as compensation for the “regular” use of their personal vehicle for Town business.
3. The mileage travel reimbursement and/or monthly travel allowance are intended to cover the costs of gasoline, repairs, insurance and general wear and tear on the employee’s personal automobile.
4. The Town will also reimburse an employee’s tolls and reasonable parking expenses for authorized work related travel outside of Andover, when receipts are provided. Employees will not be reimbursed for tolls which would be paid by the employee during their normal commute to work.
5. Town employees who use their own vehicles for work-related travel must have the following Massachusetts minimum levels of automobile insurance coverages:
 - Bodily Injury: \$20,000/\$40,000
 - Property Damage: \$5,000

However, it is recommended that the Town employees have the following Massachusetts levels of automobile insurance coverages:

- Bodily Injury: \$100,000/\$300,000
 - Property Damage: \$50,000
6. An employee who uses their personal automobile to travel from home to a temporary assignment, rather than their regularly assigned work location, shall be allowed personal automobile expenses between home and the temporary assignment and the regular work location, whichever is less. This does not apply to detail or overtime assignments.
 7. In the event that an employee's personal vehicle is damaged during authorized work-related travel, and the damage is not due to the negligence of the employee, the Town may reimburse the employee, upon receipt of a police report and verification of payment of a deductible (comprehensive or collision) to cover part of the cost of repair, up to a maximum of \$500 or the amount of the deductible, whichever is less, per occurrence.

II.9. SPECIAL CIRCUMSTANCES

This policy is intended to provide a basic framework governing the use of personal and municipal vehicles in the Town of Andover, and, as such, cannot contain procedures governing every situation that might arise. Department heads seeking clarification of or exemption from the provisions of this policy should contact the Town Manager who will provide such clarification and may authorize exceptions to the policy under mitigating circumstances.

II.10. SANCTIONS

Failure to comply with any and all provisions of this policy may result in disciplinary action up to and including removal of Town vehicle privileges as well as suspension, and/or termination of employment.

Municipal Vehicle Policy

APPENDIX A

(Amended July 21, 2014)

POSITIONS WITH TOWN VEHICLES FOR WORK AND COMMUTING USE

(As of July, 2014)

- Department of Municipal Services Vehicle Maintenance Superintendent*
- Director of Department of Municipal Services
- Department of Municipal Services Water/Sewer Superintendent*
- Department of Municipal Services Town Engineer*
- Department of Municipal Services Water/Sewer General Foreman**
- Police Department K-9 Officer

**Eliminate at the retirement of the position incumbent*

***Eliminate through collective bargaining*

POSITIONS WITH TOWN VEHICLES FOR 24-HOUR USE

(As of July, 2014)

- Fire Chief
- Police Chief
- Police Department Operations Commander

FUEL EFFICIENT VEHICLE INVENTORY LIST

(As of March 12, 2012)

NON-EXEMPT TOWN OF ANDOVER VEHICLES 2012					
MODEL AND MAKE (2WD unless noted)	YEAR	YEAR PURCHASED	EPA MPG-COMB (new)	GREEN MPG LIMIT	CLASS
<u>Town Manager:</u>					
Buick Lesabre Custom Sedan	2000	2000	20	29	CAR 2WD
<u>Administration:</u>					
Ford Escape 4x4	2006	2006	20	18	SUV 4WD
<u>Building Maintenance:</u>					
GMC Safari Cargo Van	2000	2000	17	21	SMALL VAN 2WD
GMC Safari Cargo Van	2000	2000	17	21	SMALL VAN 2WD
Chevy Colorado Pickup 4WD	2009	2009	21	19	SMALL PU 4WD
Ford Explorer 4x4	1998	1998	14	18	SUV 4WD
Chevy K1500 1/2 Ton Pickup 4X4	1997	1997	15	16	STAND PU 4WD
<u>Council on Aging:</u>					
Dodge Neon 4 Door Sedan	2001	2001	24	29	CAR 2WD
Dodge Neon 4 Door Sedan	2001	2001	24	29	CAR 2WD
Chevy Uplander Van	2008	2008	19	21	SMALL VAN 2WD
<u>Highway Department:</u>					
Ford Escape XLT 4WD 4Dr	2009	2009	20	18	SUV 4WD
Ford F150 1/2 Ton Supercab 4x4 SS X1E Pickup	2010	2010	14	16	STAND PU 4WD
Ford F150 1/2 Ton Supercab 4X4 Pickup	2003	2003	14	16	STAND PU 4WD
<u>Mechanical/Electrical:</u>					
GMC Safari Cargo Van	2000	2000	17	21	SMALL VAN 2WD
Chevy Astro Van	1999	1999	16	21	SMALL VAN 2WD
Chevy Colorado CT1565 PU	2006	2006	19	19	SMALL PU 4WD
Ford Transist Connect XL Cargo Van	2010	2010	23	21	SMALL VAN 2WD
Ford Transist Connect XL Cargo Van	2010	2010	23	21	SMALL VAN 2WD
Ford Transist Connect XL Cargo Van	2010	2010	23	21	SMALL VAN 2WD
<u>School Department:</u>					
Chevy Astro Van	1997	1997	16	29	CAR 2WD
Ford Windstar Van	1998	1998	18	29	CAR 2WD
<u>Tree Department:</u>					
Ford F150 Pick Up	2010	2010	16	16	STAND PU 4WD
Ford Ranger Pickup 4X4	1996	1996	16	19	SMALL PU 4WD
Ford Ranger 4X4 Pickup	2002	2002	16	19	SMALL PU 4WD
GMC K1500 1/2 Ton Pickup 4X4	2000	2000	15	16	STAND PU 4WD
<u>Water Department:</u>					
Ford F150 1/2 Ton Pickup w/ ext. cab.	2005	2005	14	16	STAND PU 4WD
Ford Ranger Pickup 4x4 w/ ext. cab.	2005	2005	16	19	SMALL PU 4WD
Ford Ranger Pickup 4x4 w/ ext. cab.	2005	2005	16	19	SMALL PU 4WD
GMC Envoy 4 Door	2006	2006	16	16	STAND PU 4WD
<u>Water Treatment:</u>					
Ford Escape Hybrid AWD	2006	2006	27	18	SUV 4WD
Ford Escape 4 Door AWD	2006	2006	20	18	SUV 4WD
Ford Escape 4 Door AWD	2006	2006	20	18	SUV 4WD
Ford F150 1/2 Ton Pickup	2009	2009	14	16	STAND PU 4WD
Ford F150 1/2 Ton Pickup 4x4 Cab	2003	2003	14	16	STAND PU 4WD
Ford F150 1/2 Ton 4x4 Pickup w/ Ext Cab	2001	2001	14	16	STAND PU 4WD
Ford F150 1/2 Ton Crew Cab 4x4 Pickup	2003	2003	14	16	STAND PU 4WD
Ford F150 1/2 Ton 4x4 Pickup	2005	2005	14	16	STAND PU 4WD
Ford F150 1/2 Ton 4x4 Pickup w/ Ext. Cab.	2005	2005	14	16	STAND PU 4WD

EXEMPT TOWN OF ANDOVER VEHICLES 2012			
MODEL AND MAKE (2WD unless noted)	YEAR	YEAR PURCHASED	CLASS
<u>Building Maintenance:</u>			
Ford F250 3/4 Ton Utility Body 4x4	2006	2006	Heavy Duty
Chevy Express Van 3/4 Ton	2006	2006	Cargo Van
Ford Ranger Ext.Cab Pickup 4x4	2002	2002	Heavy Duty
Chevy C3500 1 Ton Rack/Dump	1999	1999	Heavy Duty
<u>Cemetery:</u>			
Chevy 1 Ton Dump 4x2	2006	2006	Heavy Duty
Ford F350 1Ton Dump 4X4	2003	2003	Heavy Duty
John Deere Backhoe Loader 310E	2000	2000	Heavy Duty
<u>Council on Aging:</u>			
Ford Econo E450 1 1/2 Ton BW	2008	2008	Heavy Duty
<u>Fire Department:</u>			
Horton International 4300 Type I SBA LP 4X2 (Central)	2011	2011	Heavy Duty
Horton International 4300 Type I SBA LP 4X2 (West)	2008	2008	Heavy Duty
Horton Freightline FL50 Ambulance (Central)	2002	2002	Heavy Duty
Horton International 4300 Type I SBA LP 4X2 (Central)	2009	2009	Heavy Duty
Ford Explorer Utility (Central)*	2006	2006	Fire Response
Ford Chevy Tahoe CK10706 Trk 4Dr 4W*	2010	2010	Fire Response
Chevy Tahoe Utility 4x4 (Central)*	2008	2008	Fire Response
Ford Explorer XLT 4x4 4 Door (Central)*	2002	2002	Fire Response
Pierce Pumper Arrow XT (Central)	2009	2009	Heavy Duty
KME Renegade (Central)	1996	1996	Heavy Duty
KME Excell (B-Vale)	2001	2001	Heavy Duty
Pierce Pumper Dash R Series (West)	2007	2007	Heavy Duty
Chevy Expcut Box Truck (Central) (Air Supply) (Special Services)	2003	2003	Heavy Duty
Ford F450 1 1/2 Ton Utility Bucket Truck (West)	1994	1994	Heavy Duty
Ford Pickup 4X4 F-350 1Ton (Forestry Brush Truck) (West)	1996	1996	Heavy Duty
Ford F350 1 Ton Super Duty 2 Dr PU (Central)	2004	2004	Heavy Duty
Pierce Dash R Cummins ISM Ladder Truck (Central) (Reserve)	2005	2005	Heavy Duty
KME Aerial Cat Ladder Tower (Central)	1999	1999	Heavy Duty
<u>Highway Department:</u>			
Mack GU712 Dump Truck	2012	2012	Heavy Duty
Mack GU712 Dump Truck	2012	2012	Heavy Duty
Mack GU712 Dump Truck	2009	2009	Heavy Duty
Mack CV712 Dump Truck	2006	2006	Heavy Duty
Mack GU712 Dump Truck	2009	2009	Heavy Duty
Mack RD690P Dump Truck with catch basin cleaner	2003	2003	Heavy Duty
Mack GU712 Dump Truck	2012	2012	Heavy Duty
Mack CV713 Dump Truck	2005	2005	Heavy Duty
Mack RD 690P Dump Truck w/2 CACI Tanks	2000	2000	Heavy Duty
Mack RD Dump Truck w/2 CACI Tanks	1999	1999	Heavy Duty
Caterpillar Wheel Loader Model 938G	2000	2000	Heavy Duty
John Deere Loader 624J 4WD	2008	2008	Heavy Duty
Ford F550 2 Ton Super F57 Chassis Cab Drw 4x4 with plow	2008	2008	Heavy Duty
Ford F450 1 1/2 Ton F47 Chassis Cab Drw 4x4	2009	2009	Heavy Duty
Ford F450 1 1/2 Ton Supercab F4H	2011	2011	Heavy Duty
Ford F450 1 1/2 Ton Dump	2008	2008	Heavy Duty
Ford F450 1 1/2 Ton 4x4 Utility/Dump	2005	2005	Heavy Duty
Mack RD690P Dump Truck w/2 CACI Tanks	2002	2002	Heavy Duty
Mack 10-Wheeler w/2 CACI Tanks	2001	2001	Heavy Duty
Mack 10-Wheeler w/2 CACI Tanks	2001	2001	Heavy Duty
Ford F450 1 1/2 Ton 4x4 Fatbed w/crane	2008	2008	Heavy Duty
Bobcat Skidsteer 773T Loader	2001	2001	Heavy Duty
Bobcat Skidsteer 773T Loader	2001	2001	Heavy Duty
Holder Tractor C9.78 with attachments	2005	2005	Heavy Duty
Holder Tractor C9.78 with attachments	2005	2005	Heavy Duty
John Deere Backhoe Loader 3105E	2000	2000	Heavy Duty
LeeBoy 5 ton Riding Roller	1989	1989	Heavy Duty
3 Wheel Elgin Pelican Sweeper	2006	2006	Heavy Duty
Bombardier Sidewalk Tactor SW48HY With "V" plow	2007	2007	Heavy Duty
3 Wheel Elgin Pelican Sweeper	2006	2006	Heavy Duty

EXEMPT TOWN OF ANDOVER VEHICLES 2012			
MODEL AND MAKE (2WD unless noted)	YEAR	YEAR PURCHASED	CLASS
<u>Mechanical/Electrical:</u>			
Chevy 3500 Aerial Lift Bucket Truck	2001	2001	Heavy Duty
Ford F250 3/4 Ton Van	2011	2011	Heavy Duty
<u>Parks and Grounds:</u>			
Ford F350 1 Ton Rack 4x2	2009	2009	Heavy Duty
Ford F350 1 Ton Dump 4x2	2006	2006	Heavy Duty
Ford F350 1 Ton Rack w/tailgait 4x2	2006	2006	Heavy Duty
Ford F350 1 Ton Dump 4X2	2001	2001	Heavy Duty
2001 Chevy 2500HD 3/4 Ton 4 Wheel Drive Pickup	2001	2001	Heavy Duty
Kubota Diesel Tractor	1999	1999	Heavy Duty
<u>Police Department:</u>			
Westwood GO-4 Interceptor-III 3-Wheel Motorcycle	2007	2007	Motorcycle
Ford Crown Victoria	2008	2008	Police Response
Ford Crown Victoria	2011	2011	Police Response
Ford Crown Victoria	2009	2009	Police Response
Ford Crown Victoria	2011	2011	Police Response
Ford Crown Victoria	2009	2009	Police Response
Ford Crown Victoria	2011	2011	Police Response
Ford Crown Victoria	2010	2010	Police Response
Ford Crown Victoria	2009	2009	Police Response
Ford Crown Victoria	2009	2009	Police Response
Ford Crown Victoria	2010	2010	Police Response
Ford Crown Victoria	2010	2010	Police Response
Ford Crown Victoria	2008	2008	Police Response
Ford Explorer XLS 4X4 4 Dr Utility*	2005	2005	Police Response
Ford Explorer XLS 4X4 4 Dr Utility*	2002	2002	Police Response
Ford Econovan (Animal Control)	2001	2001	Police Response
Ford Ecovan	2000	2000	Police Response
Ford Excursion Utility (Chief)*	2001	2001	Police Response
Ford F150 1/2 Ton Pickup 4x4*	2006	2006	Police Response
Ford Taurus P2H SD	2011	2011	Police Response
Ford Crown Victoria	2010	2010	Police Response
Ford Crown Victoria	2007	2007	Police Response
Ford Crown Victoria	2008	2008	Police Response
Ford Crown Victoria (Chief)	2009	2009	Police Response
Ford Crown Victoria	2005	2005	Police Response
Ford Crown Victoria	2006	2006	Police Response
Ford Ex Utility 4X4 (NEMLEC TASK FORCE VEHICLE)	2003	2003	Police Response
Ford Ecovan S350 (NEMLEC TASK FORCE VEHICLE)	1994	1994	Police Response
Ford Crown Victoria	2007	2007	Police Response
Harley Davidson FLHP Motorcycle	2011	2011	Police Response
<u>Tree Department:</u>			
Chevy C1500 Pickup Truck 4x4	2002	2002	Police Response
Chevy 3500HD 1-1/2 Ton Chipper/Dump Truck	2002	2002	Heavy Duty
Mack Crane Platform - Diesel	1997	1997	Heavy Duty
GMC Topkick Flatbed Truck - Diesel	1992	1992	Heavy Duty
GMC C Series Bucket Truck - Diesel	1999	1999	Heavy Duty
Kubota Tractor	2006	2006	Heavy Duty
<u>Vehicle Maintenance:</u>			
Chevy K3500 1 Ton Pickup	2000	2000	Heavy Duty
<u>Water Department:</u>			
Ford F350 1 Ton Utility Body w/ crane	2004	2004	Heavy Duty
Ford F350 1 Ton F31 Utility Body w/ plow	2004	2004	Heavy Duty
Ford F350 1 Ton F31 Utility Body w/ plow	2004	2004	Heavy Duty
Mack 10 Wheel Dump Truck CV713 w/ snow setup	2005	2005	Heavy Duty
John Deere Backhoe Loader 410J	2007	2007	Heavy Duty
Ford F550 2 Ton Cab Drw 4x4	2008	2008	Heavy Duty
Intl 700SER Truck	2005	2005	Heavy Duty

EXEMPT TOWN OF ANDOVER VEHICLES 2012			
MODEL AND MAKE (2WD unless noted)	YEAR	YEAR PURCHASED	CLASS
<u>Water Department:</u>			
Ford F350 1 Ton Utility Body w/ crane	2004	2004	Heavy Duty
Ford F350 1 Ton F31 Utility Body w/ plow	2004	2004	Heavy Duty
Ford F350 1 Ton F31 Utility Body w/ plow	2004	2004	Heavy Duty
Mack 10 Wheel Dump Truck CV713 w/ snow setup	2005	2005	Heavy Duty
John Deere Backhoe Loader 410J	2007	2007	Heavy Duty
Ford F550 2 Ton Cab Drw 4x4	2008	2008	Heavy Duty
Intl 700SER Truck	2005	2005	Heavy Duty
<u>Water Treatment:</u>			
Ford F250 3/4 Ton Pickup	2007	2007	Heavy Duty
Ford F350 1 Ton Utility Crane Truck	2006	2006	Heavy Duty
<u>Youth Services:</u>			
Ford Elkhart ELKC E450 1 1/2 Ton Coach Bus	2011	2011	Passenger Van
Ford Elkhart ELKC E450 1 1/2 Ton Coach Bus	2010	2010	Passenger Van
Ford XLT 138 1 Ton Van 15 Passenger	2005	2005	Passenger Van
Ford Ecowag E350 1 Ton Van	2001	2001	Heavy Duty
*Vehicles are not in an exempt class, however their use as emergency response equipped vehicles makes them exempt.			

III. MINORITY BUSINESS ENTERPRISE PROGRAM

It is the policy of the government of the United States of America, the Commonwealth of Massachusetts and the Town of Andover that no person shall be discriminated against in any manner whatsoever because of race, color, national origin, sex, religion, age or handicap.

That no person shall, because of race, color, national origin, sex, religion, age or handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded entirely or in part by the Town, the State, or the Federal Government.

The Town of Andover as a federal and state recipient, unequivocally ascribes to said policy and procedures, and will fully comply with federal, state and local laws and directives governing equal opportunity, affirmative action and non-discrimination in all municipal activities.

To further enunciate the Town of Andover's equal opportunity, affirmative action policy, this minority business enterprise program sets forth the administrative standards and procedures for the utilization of minority contractors; sub-contractors; suppliers; architects; engineers; lawyers; accountant consultants; goods and services vendors, etc.

The Town of Andover strongly affirms that it will abide by such laws, regulations and procedures, and that this policy shall be administered and implemented at all levels with a positive, aggressive and supportive attitude. The contract compliance officer shall be responsible for the implementation, monitoring and assurance that all aspects of the minority business enterprise program are initiated to its fullest extent.

By virtue of the delegation of this responsibility and authority to direct the program, the contract compliance officer will report directly to the Town Manager on all equal opportunity matters. The program requires all Town's departments to cooperate with this policy. Failure to follow this policy and its regulations will result in disciplinary action to be administered by the appropriate supervising authority.

It is hereby agreed that the following Minority Business Enterprise Program be instituted for and on behalf of the Town of Andover.

11/22/82

IV. LAND USE

IV.1. REGULATIONS FOR USE OF THE PARK

The Park, bounded by Chestnut Court, Bartlet Street, Whittier Street, Whittier Court and the Municipal Buildings, is for the recreational enjoyment of all of the residents of Andover. Citizens are encouraged to use The Park for both quiet enjoyment and active use consistent with the regulations outlined below.

The use of The Park for events shall be by permit only. An event is defined as a municipal, cultural, educational, religious, social or charitable program, occasion or activity. There are three types of permits. Permits issued by the Town Manager's Office and Special Permits issued by the Select Board. These three types of permits are defined below:

A. Permits issued by the Town Manager's Office:

Permits for the following events are granted by the Town Manager's Office: 1) a wedding ceremony or photography session before or after a wedding; 2) day-time activities conducted by the Division of Community Services, other Town departments or a school. These permits are subject to the regulations in Section B.

B. Other Permits issued by the Town Manager's Office subject to the following Regulations:

1. Events in The Park are permitted for one (1) day and shall only take place between the hours of 7:00 A.M. and 9:00 P.M. The clean-up and/or tear-down after an event must be concluded by 11:00 P.M. If additional clean-up is needed, it can begin after 7:00 A.M. the following day and must be completed by 12:00 P.M. (Noon).
2. Playing of music is permitted but must be at a reasonable volume and cease at 9:00 P.M.
3. If a power generator is used, it must cease at 11:00 P.M. The Town reserves the right to designate the location of the generator so as to minimize the effects of noise and exhaust on abutting properties to the greatest extent possible.
4. Portable chemical toilets are not permitted.
5. Trash dumpsters are only allowed by special permit, granted by the Select Board. They can be located behind the Doherty Middle School in the parking lot by the track. They must be removed within 24 hours of the end of the event or the Town will remove them at the permittee's expense. Any dumpster 6 cubic yards or larger must also be permitted by the Health Division and Fire Department.
6. Permit holders shall be responsible for cleaning and restoring the entire area and proper disposal of trash/litter off the premises. Permit holders will be responsible for the cost to repair any damage to The Park as a result of their event.

7. Permit holders shall not obstruct or cause to be obstructed any public ways, fire lanes or egress of any emergency vehicle. Parking of vehicles or placement of rides or amusements is not permitted on the grass.
8. The use of alcoholic beverages in The Park is not permitted.
9. Permit holders are responsible for insisting on compliance with the parking rules and regulations established for adjacent streets and municipal parking lots in the area of The Park by the sponsors, event staff and vendors.
10. Permit holders of events permitted by the Town Manager must notify property owners on both sides of Chestnut Street from Main Street to Pasho Street, Bartlet Street from Barnard Street to Morton Street, Whittier Street from Park Street to Chestnut Street and all of Whittier Court with written notice within two (2) weeks but not less than forty-eight (48) hours prior to an event.
11. Amusement devices (carnival rides) in The Park or adjacent municipal parking lots are not allowed except by Special Permit of the Select Board.
12. A violation of these regulations may result in an immediate revocation of the permit or special permit and all activities suspended by the officer in-charge of the Police Department. Violations could result in the denial of any future requests for a permit or special permit. If additional costs are incurred by the Town in the enforcement of these regulations, then the permit holder shall be held responsible.
13. The Town Manager's Office may refer an applicant to the Select Board for their review and approval if it is felt it is in the best interest of the Town to do so.

C. Special Permit Issued by the Select Board

A Special Permit may be issued by the Select Board for an event that includes amusement devices (carnival rides), however, the organization must comply with (a) the Regulations for Use of The Park in Section B.; (b) other arrangements as specified by the applicant and approved by the Select Board; and (c) the requirements of the following Departments and Divisions:

- | | |
|------------------------------|-----------------------------------|
| ~ Police Department | ~ Fire Department |
| ~ Building Division | ~ Health Division |
| ~ Department of Public Works | ~ Plant and Facilities Department |
| ~ Community Services | ~ School Department |

To receive a Special Permit, an organization must apply to the Town Manager's Office four (4) months prior to the event. The Select Board will notify the property owners on Chestnut Street, Bartlet Street, Whittier Street and Whittier Court as defined in Section B. 10., place an advertisement in *The Andover Townsman* twice prior to the hearing date,

hold a public hearing to consider the request and issue a decision within three (3) weeks of the hearing. If a public hearing is required, then the applicant must pay \$200.00 (if needed) to cover the cost of the notices, advertising and processing.

ANDOVER SELECT BOARD

Effective: September 13, 1999

Revised: December 2, 2013

IV.2. GOVERNING THE USE OF UNDEVELOPED TOWN-OWNED LAND

These regulations apply to all undeveloped areas in the Town of Andover owned by and under control of the Town of Andover, the Conservation Commission, the School Committee or other Town entity either by deed provision, easement, Town Meeting vote or informal arrangement with other entities.

These regulations are not limited to those areas with signs so indicating, but where possible, abbreviated versions of these rules will be posted.

- 1) The Town of Andover assumes no liability for injuries, damage to property or other loss to persons going on such areas. Users of these areas assume all risks involved.
- 2) No alcoholic beverages of any kind are allowed on Town property.
- 3) Hunting is prohibited except for deer hunting by bow and arrow in accordance with rules and regulations established by the Conservation Commission in conformity with the General Laws. [Amended 8-8-11]
- 4) Fishing is allowed under the provisions of applicable state law.
- 5) All persons are welcome to use Town facilities and open areas without permit from sunrise to sunset.
- 6) Overnight camping will be permitted only to Scouts and similar organizations having an adult leader present and responsible at all times. Every such group shall obtain a written camping permit from the Conservation Commission office and a fire permit from the Fire Department for campouts if open fires are planned.

The Fire Department will issue permits for open air fires only after the camping permit has been obtained. The Conservation Commission will designate the exact site to be used and will mandate what sanitary arrangements shall be made.

Said permits will be used for each twenty-four hour period. Any persons camping in Conservation land without said permit(s) shall be subject to prosecution and fines (see item 11). The Conservation Commission reserves the right to deny said permit.

- 7) Areas are meant to be preserved in a clean, neat manner. Cans, bottles, garbage, paper, plastic and any other debris whatsoever shall be placed in receptacles if provided by the Town or taken away if no municipal receptacles are on the site.

No trees, living or dead, no plants or flowers or soil material or rocks or animals of any sort whatsoever shall be removed from the Conservation areas, nor defaced, cut, painted or otherwise maimed, under penalties described in item 11. No wood, living or dead, shall be cut except as specifically authorized by the Conservation Commission for Conservation purposes only.

Dumping on any land in the Town of Andover is prohibited by Town By-Law.

- 8) Motor vehicles of any kind are prohibited except on roadways and specified parking areas.
- 9) Community gardening is allowed in those areas specified.
- 10) No trails, dams or markings are to be built, or any bridges installed without permission of the controlling entity.
- 11) Visitors are urged to leave areas cleaner than they were found and report violations to the appropriate authorities or the Andover Police Department. Violations hereof shall be punishable by fines up to \$200.00 for each offense. Every day of such offense shall be deemed to be a separate offense.
- 12) Permission for the use of school land should be addressed to the School Committee; Town lands to the Town Manager, and Conservation lands to the Conservation Commission. Requests for deviation from any of the above should be addressed to the controlling entity.

(9/13/85)

IV.3. OPEN SPACE

The Select Board feels that the Goals and Objectives as articulated in the “Report of the Recreation and Open Space Study Committee” form a good foundation upon which future Town decisions in this area can be based. As stated, these goals are a reaffirmation of a 1976 report and remain valid.

These **Goals and Objectives** follow:

Listed below and briefly described are the community’s aspirations for the preservation and utilization of its open space resources. These goals have not changed substantially since the preparation in 1975 and 1976 of the Recreation and Open Space Committee Report, which was intended to be a ten-year action program.

Therefore, the articulation of these Goals and Objectives started with the list of Goals on Page 17 of the 1976 “Report of the Recreation and Open Space Study Committee”. All of those involved in the preparation of this current plan reviewed these Goals and contributed suggestions.

GOAL #1 - PRESERVE ECOLOGICAL BALANCE

As the rapid urbanization of Andover proceeds, it is vital to its total well-being that the natural systems upon which all its citizens depend are not needlessly abused. This means protecting water supplies, both local and regional, guiding development away from sensitive areas like wetlands, floodplains and areas of poor soil capability, preventing degradation because of pollution and erosion, and preserving outstanding natural features, particularly water bodies, as well as endangered habitats and sites of historical or archeological significance.

OBJECTIVES

- a. Protect town water supplies by acquiring all of the remaining undeveloped Fish Brook and Haggetts Pond lowlands;
- b. Protect the remainder of the water supply watershed from harmful development by means of acquisition or special constraints on use;
- c. Identify and protect areas critically significant to the groundwater resources of the Town and its neighbors, which have present or potential or stand-by water supply capability;
- d. Continue strict enforcement of the Wetlands Protection Act;
- e. Refine and strictly enforce the erosion and sedimentation controls in the Town’s subdivision regulations;

- f. Define more specifically the means of protection of open spaces and natural features in the Town's zoning and subdivision regulations. Review those regulations with the objectives of increasing environmental protection and decreasing the adverse environmental impacts of development;
- g. Develop a method of preserving adequate open space, wetlands and other outstanding natural features in and around industrial areas, for instance, a patch of laurel or a stand of native trees;
- h. Adopt more specific guidelines for the safe and clean discharge of storm drainage on the part of the Town; for example measures to prevent siltation and petroleum products pollution of streams and wetlands;
- i. Minimize the use of pesticides and herbicides;
- j. Explore the use of conservation land trusts and other land conservation techniques to preserve open space while guiding appropriate development;
- k. Encourage the acquisition of Conservation Easements by the Town and private open space groups.

GOAL #2 - ENCOURAGE OPEN SPACE ENJOYMENT AND UTILIZATION

Open space preservation should guide the Town's programs. The Town needs to expand the opportunities for outdoor recreation and enjoyment so that those opportunities are available to all citizens. Open spaces and recreation programs should be provided for all ages and groups.

OBJECTIVES

- a. Publicize this plan. Prepare and distribute more informational material relative to available public open space and active recreational opportunities and programs, such as brochures;
- b. Continue to implement long range plans for the Andover Recreation Park;
- c. Attempt to link open space areas by means of trails. Continue to try to establish a Town-wide trail network;
- d. Encourage appropriate open space uses while discouraging abuse. This means attempting to balance user needs so that no group is shut out and open space areas are not preempted unfairly;
- e. Support and encourage groups who use public open spaces appropriately and those who will voluntarily improve and enhance such areas such as scout troops, garden clubs and school children.

GOAL #3 - ENHANCE “THE TOWN BEAUTIFUL”

Andover’s attractiveness and desirability as a place to live and work depend in large part on its “open” qualities. Every effort needs to be made to ensure green areas at critical locations and to guide the quality of development insofar as possible for visual enhancement.

OBJECTIVES

- a. Identify, protect and maintain by available means outstanding natural features, endangered habitats, archeologically important sites and green and open spaces at critical locations, such as traffic islands at intersections;
- b. Improve methods which the Planning Board can effectively use to design development within subdivisions so as to preserve not only natural features, such as wetlands and scenic areas but usable recreational open space;
- c. Initiate and/or support open space maintenance programs, such as beautification, through federal, state or local efforts.

GOAL #4 - PROTECT RIVER CORRIDORS

All of the above goals are well served by protection of and access to river corridors throughout the Town: not only the Shawsheen and Merrimack but especially Fish Brook, which is a substantial contributor to the Town’s water supply and the Skug River, (part of the Ipswich River watershed), which contributes to the water supplies of downstream communities.

OBJECTIVES

- a. Acquire or protect by easement wherever possible the banks of the major rivers, streams and ponds of the Town;
- b. Establish and maintain trails along rivers where possible;
- c. Plan for utilization of accessible river banks. Boat launching facilities could be developed. Water sports programs could be devised.

GOAL #5 - BE RESPONSIBLE IN REGIONAL RELATIONSHIPS

The tendency to concentrate effort and attention on purely local concerns needs to be balanced. What we do in Andover may affect not only our immediate neighbors in the Merrimack Valley but potential open space users from the more densely populated Metropolitan Boston area. The Town needs to keep informed

about regional problems and plans, and to work cooperatively with regional and state agencies.

OBJECTIVES

- a. Make Andover's representative on the Merrimack Valley Planning Commission aware of Andover's open space and recreation assets as well as its goals and objectives;
- b. Make Andover aware of regional open space recreation goals through its participation on or involvement in other regional environmental groups;
- c. Communicate Andover's open space assets regionally as well as locally.

GOAL #6 - MAKE GOOD USE OF SCARCE RESOURCES

This means better interagency planning and coordination as well as cooperation with other holders of open space available for public use such as AVIS, the Department of Environmental Management of the Commonwealth and the Trustees of Reservations. The working relationships between these groups should continue to be cultivated. Joint planning for better protection and utilization of town resources should be developed.

OBJECTIVES

- a. Continue to facilitate the sharing of open space and recreation areas among the different agencies of the Town;
- b. Maintain and improve working relationships of Town agencies with other holders and managers of open space and active recreation facilities. Included are AVIS, Trustees of Reservations, State Department of Environmental Management, Phillips Academy, YMCA, the regional vocational school and local schools.

GOAL #7 - PROVIDE BETTER MANAGEMENT OF EXISTING AREAS

In this time of shrinking public financial support, funds for the care and maintenance are amongst the first items to be excised from the budget. Management strategies must be devised to close the gap. Otherwise increasing urbanization spells deterioration of existing facilities and open space qualities because of overuse, vandalism, litter and other abuses. Andover should protect its already considerable investment in open space.

OBJECTIVES

- a. Improve the maintenance program for the Town's active recreation areas such as playfields and playgrounds;

- b. Establish a maintenance fund for limited care of reservations. Support appropriate maintenance funding for Community Services facilities;
- c. Provide proper signs to identify conservation – recreation areas and to control uses;
- d. Continue efforts to develop better management strategies using volunteers wherever possible;
- e. Be alert to abuses such as litter and vandalism and employ appropriate enforcement techniques;
- f. Balance uses so as to provide maximum enjoyment and employment of open spaces;
- g. Try to make users of the Town’s open space aware of their responsibility for its proper management.

GOAL #8 - BE FAIR

This goal means trying to achieve spatial balance of open space and recreational opportunities throughout the Town and means ensuring that all age and social groups are served. It means using open space acquisition to shape, provide context for and serve the demands development is bringing rather than to block development.

OBJECTIVES

- a. Seek to acquire open space in neighborhoods where it is lacking or limited;
- b. Identify deficiencies in outdoor recreation opportunities and develop strategies to correct them;
- c. Try to provide opportunities for the enjoyment of open space by all groups and ages, including elderly and handicapped citizens.

GOAL #9 - PRESERVE FARMING

The Town should try to maintain farming at least at its current level and to encourage the preservation and agricultural use of suitable open land.

OBJECTIVES

- a. Encourage the few remaining active farmers to apply for Agricultural Preservation Restrictions, and to take advantage of other State, federal and private programs designed to preserve Massachusetts agriculture;
- b. Consider the establishment of a Farmers Market;
- c. Continue to encourage agricultural use of public land where appropriate and not incompatible with other legitimate uses.

1983

IV.4. "ADOPT AN ISLAND" PROGRAM

Open to all residents and businesses in the Town of Andover.

Requests to "Adopt an Island" must be made in writing to the Town Manager's Office, Town Offices, 36 Bartlet Street, Andover, MA 01810.

Please provide: Name, address and telephone number of person or business
 Location of island
 Design or layout of proposed planting

8/16/2000

IV.5. ISLANDS MAINTAINED BY THE PARKS & GROUNDS DIVISION

Note: This work consists of mowing the grass and Spring and Fall clean-ups:

- Osgood Street at Raytheon
- School Street and Central Street
- Stevens Street and Main Street
- Essex Street
- Poor Street
- Haverhill Street and Beacon Street
- Lowell Street and Beacon Street
- North Street
- Andover Street
- High Street
- Elm Green
- Ballardvale Green
- Main Street at Hidden Road
- Porter Road at Hidden Road

These are the only islands that the Parks and Grounds Division maintain and at some of these locations there are gardens that have been planted by various groups. There are many circles and cul-de-sacs in Town that have been planted by the neighborhood and are maintained by these people with no assistance or involvement by the Town.

V. DEPARTMENT OF PUBLIC WORKS POLICIES

V.1. PUBLIC WORKS ENGINEERING SERVICES POLICY

The Department of Public Works will procure engineering services for public works projects via a qualifications-based process in accordance with Massachusetts General Laws Chapter 30B. Public works projects are defined as “horizontal” construction such as roads, streets, bridges, water and sewer mains, landfills, sidewalks, site work, etc.

- A. The Department of Public Works will seek proposals for “continuing service agreements” for water, sewer and structural (bridge) projects. The “continuing service agreements” will provide for on-call engineering services for specific construction projects with an engineering cost estimate of less than \$25,000 per project or a total construction cost estimate of less than \$250,000 per project. The engineering contract would be for one year with the provision that it could be extended to three years.
- B. The Department of Public Works will seek proposals for “project specific service agreements” for any horizontal public works construction projects with an engineering cost estimate greater than or equal to \$25,000 per project or a total construction cost estimate greater than or equal to \$250,000 per project. The engineering contract would be for the life of the project.
- C. The Department of Public Works will seek price quotes for “project specific service agreements” for all other horizontal public works engineering services (such as sidewalks, landfills, stormwater/drainage, site work, etc.) with an engineering cost estimate of less than \$25,000 per project or a construction cost estimate of less than \$250,000 per project. The contract would be for the life of the project.

August 22, 2005

V.2. MANDATORY RECYCLING AND TRASH PICKUP

V.2.1: Mandatory Recycling

On July 23, 1990, the Select Board unanimously voted to support the following motion pertaining to Mandatory Recycling in the Town of Andover:

“I move that the Board of Selectmen vote to endorse the Mandatory Recycling Program for glass and paper that will go into effect on Monday, August 6, 1990. This action was authorized by the 1988 Annual Town Meeting vote on Article 55, entitled “Mandatory Recycling”. The Board encourages all residents to take part in our curbside glass and paper recycling program and in doing so help preserve our environment and save our financial resources”.

V.2.2: TRASH AND RECYCLING GUIDELINES

- Household rubbish is limited to 4 bags or barrels, no more than 50 pounds each, or the equivalent of 135 gallons maximum per residence.
- Recycling is Mandatory. No particular enforcement authorized.
- Assistance in organizing recycling and trash may be requested of the Recycling Committee or the DPW.
- Exception will be made for extraordinary trash due to special events at home.

Section V.2.2 Voted: June 22, 2009

V.2.3: TRASH AND RECYCLING CURBSIDE PICKUP

The Town of Andover shall be responsible for curbside trash and recycling collection from residential dwellings which include all single family locations and multi-family locations that do not exceed six (6) units.

All multi-family complexes exceeding six units, businesses, not-for-profits, houses of worship and any other location that does not match the definition of single family locations and multi-family locations up to six units, shall be solely responsible for the collection of such recycling and trash, except that;

the following multi-family locations shall be grandfathered and will continue pickup of recycling so long as recycling is brought curbside by the public roadway; Hunter’s Ridge, Meredith Village, Ballardvale Crossing, Hillcrest Townhouse, Temple Place Condominiums, 70-84 Essex Street Apartments, and 6-12 Maple Avenue Condominiums, and

the following multi-family locations shall be grandfathered and allowed to continue pickup of household trash so long as trash is brought curbside by the public roadway; Hillcrest Townhouse and Temple Place Condominiums.

Section V.2.3 Voted: July 11, 2011

VI. FEES/PUBLIC RECORD POLICIES

VI.1. User Fees

Recognizing the constraints imposed by Proposition 2 ½, the desirability to minimize tax increases, and the reductions in Federal and State assistance, the Select Board supports the implementation of alternate funding sources for Town expenditures.

These funding sources may take the form of **user fees** (fees assessed for goods and services that a governmental body provides), **regulatory charges** (fees paid to conduct or regulate a specific activity or occupation) and **finer** (fees assessed for violation of local requirements).

When implementing or increasing a fee, the Select Board may consider the following:

- 1) Confirmation that the Select Board has the statutory authority to set the fee.
- 2) How much services cost to maintain and deliver.
- 3) Whether or not taxpayers can be excluded.
- 4) Whether or not there is an easy way to collect the charge.
 - a) When the fee will be collected
 - b) How the fee will be collected
 - c) Cost of the collection
- 5) Comparison of similar charges to those of neighboring communities.
- 6) Review of past and projected service demand.
- 7) Review estimates of new revenue.
- 8) Public opinion (through public hearing)
- 9) Regular fee review if deemed appropriate.

The Town shall maintain a Revenue Manual which will list all revenue sources on a prescribed form. Those fees that the Select Board is currently authorized to review and amend are as follows:

- Parking Tickets
- Andover Housing Authority Fees (currently not applicable)
- Use of Town Landfill
- Real Estate Taxes
- Personal Property Taxes
- New Building Permit (including additions & alterations)
- To Build Swimming Pool or Tennis Court
- To Raze Building
- To Move Building
- Sign Permit
- Change of Ownership

Permit Renewals
Release of Stop Work Order
Amusement Park/Carnival Equipment and Tent Permits
Air Conditioning Permit
Heating Alterations
Gravel Removal
Chimney Permit
To Install, Alter or Repair Elevators
Conformance to Zoning Affidavit
Zoning Verification for Business Certificate
Construction Trailers and/or Emergency Mobile Homes
Certificate of Occupancy
Building Re-Inspection Permit
Plumbing Fees
Gas Fees
Certificate of Inspection
Electrical Permit
Zoning Board of Appeals Application
Meter Fees
Recreational Park Rentals
Field Rentals
School Building Rentals
Oil Burner and Oil Storage Permit
Fire Reports
Liquid Propane Gas Storage Permit
Fireworks Display Permit
Blasting Permit
Model Rocket Permit
Welding and Cutting Permit to Store
Storage Tank Inspection Permit
Tank Truck Inspection
Permit to Erect and Use a Tent
Explosive and Flammable Storage Permit
Ambulance Fees
Burial Fees
Lot Fees
Perpetual Care
Alarm Fines
Sale of Dogs
Off-Street Parking
Water Rates
Unauthorized Use of Hydrant.
Fire Service Water Demand Fee
Fine for Disconnected Meter
Water Service Taps
Thawing Fees

Test Backflow Preventers
Water Sale to Other Towns
Sewer Rates
Relieve Sewer Blockage
Retail Package Goods
Liquor Licenses
One-Day Liquor License
Second-Hand Motor Vehicle Seller's License
Taxi Licenses
Carriage of Passengers for Hire License
Junk Dealer/Collector License
Bowling Alley License
Town Maps, Town By-Laws, and Zoning By-Laws
Copy of Public Record

Authorization for the Select Board to set the above fees is found within the Massachusetts General Laws or the Andover Town By-Laws. Particulars of the above fees may be obtained in the appropriate department.

All designs will be reviewed by the Superintendent of Parks and Grounds with a recommendation made to the Town Manager.

Planting must be maintained for at least two years from time of planting and continued as long as the area is maintained in a good condition.

The person or business shall pay for the cost of the sign. The Town of Andover will provide the "Adopt an Island" sign design and designate a vendor or vendors. Signs must conform to the Town of Andover Zoning Bylaw regulations.

The only maintenance performed by the Town will be on islands presently maintained by the Parks and Grounds Division. This work consists of the cutting and clean-up of said islands.

The island shall be maintained by the person or business that made the request to adopt the island. If at any point the Town deems that the island is unsightly due to lack of care, then the Town will remove the "Adopt an Island" sign and the material on the island and the person or business will forfeit their rights to plant the island.

If at any time the planting is deemed to interfere with traffic or views of traffic, then the Town will take steps to correct the problem in consultation with the adopter.

All islands will be required to have at least a Spring and Fall clean-up to remove any debris.

November 6, 2000

VI.2. Meeting Tape Recording Policy

Tape Policy for Implementation of Article 40 of the 1997 Annual Town Meeting:

“Upon motion made and duly seconded it was moved that the Town raise by taxation and appropriate the sum not to exceed \$1,000.00 for the first year’ operation and to require that henceforth all meetings of the School Committee, Planning Board, Finance Committee and the Select Board shall be recorded in their entirety by means of a tape recorder or by other means of sonic reproduction. Such recordings to be preserved for five years, and copies shall be made to the public at no greater than actual cost”.

1. The School Committee, Planning Board, Finance Committee and Select Board will record all publicly posted meetings by means of a tape recorder.
2. All recordings will be maintained in the department responsible for the public record.
3. Tapes for this recording program will be purchased by the Finance Department and debited from the appropriate account assigned by the Finance Department. All monies collected from this recording program shall be deposited to the General Fund.
4. The tape recording shall remain in the department for public inspection for one full year. Thereafter, unless an issue from a meeting is under legal appeal, the recordings will be maintained in the Town’s record retention center in each designated Department area for four full years. Each Department will follow all established record retention and record retrieval procedures when filing these recordings (see the Town Clerk for these procedures). After five full years of record retention, the tapes may be transmitted to the Library for research purposes until they are no longer deemed useful.
5. Requests for listening to tapes or copies of tapes will be processed through the Department responsible for the record.
 - Regular size tapes may be copied through the School Department’s dual recording device. A recorder will also be made available for listening requests.
 - Micro tapes may be copied on a dual recorder. This micro dual recorder will be used for listening and the recording of the tapes. The recorder will be stored in the Town Clerk’s office and will be signed out and returned by departments as needed.
 - The cost of a copy of the recording will be the per hour salary of the lowest paid employee in the department that would be responsible for the task plus the cost of the tape. A good faith estimate of the cost will be provided to the requester before the request is processed and said fee will be paid in full prior to any reproduction.
 - Listening to a recording will require an appointment.
 - Copies of a recording will require a written or oral request to allow the time necessary to copy the tape

June 23, 1997

VI.3. Public Record Fees and Policy

1. Except where fees for copies and research of public records are prescribed by State statute or local bylaws, Town departments and offices shall charge no more than the following fees for copies of public records:
 - A. For *photocopies* of a public record of standard reproducible size: *\$.20 per page*.
 - B. For a *computer printout* of a public record: *\$.50 per page*.
 - C. For *requests* that require less than twenty (20) minutes to complete: *no charge*.
 - D. For *requests* that require performing a search and/or segregating exempt information that is longer than twenty (20) minutes: *a pro-rated fee will be assessed based on the salary of the lowest paid employee in the department that can perform the task*.

The fee assessed will reflect the time taken to search for the file(s), pull the file(s) to be inspected, segregate exempt information, copy a file(s) and return it to a file.
2. The department or office in charge of a public record shall provide a good faith estimate of the search, copying and segregation time fees prior to complying with the request.
3. There will be no fees assessed for the time of the actual inspection of the record.

DOCUMENT AVAILABILITY

1. Requests for copies will be handled expeditiously and in compliance with the Public Records Law. In those instances when staff time is not available at the time of the request or if the records must be reviewed by staff for exempt information, a mutually agreeable time by both parties should be decided upon in order that the requester may view the records in a timely manner.
2. Requested copies must be made by staff.
3. Members of committees requesting copies of public records for the use of the whole committee will not be charged a fee. The request should come from the Chairman of the committee or the designated staff member who is responsible for the committee.

September 22, 1997

VI.4. Ambulance Billing

Beginning July 1, 1988, residents of Andover, as well as non-residents, will be billed for ambulance calls. Billing will be handled by a third-party billing company with the bill being forwarded to the insurance companies. Residents will not be required to pay for the service if they do not have insurance.

Monies collected are dedicated to the Fire Department budget.

5/9/88

VII. HOUSING/TAXES

VII.1. Fair Housing Plan

The purpose of the Town of Andover Fair Housing Plan is to achieve the aims of Executive Order No. 227, Governor's Code of Fair Practice; the Massachusetts General Laws Chapter 151B, Administrative Bulletin 75-14; Federal Executive Order No. 11063, EEO in Housing and the Federal Civil Rights Act of 1968, Title VIII Fair Housing as amended by the Housing and Community Development Act of 1974, to the extent that these prohibit discrimination in housing on the grounds of race, color, national origin, ancestry, age, religion, welfare status, children, marital status, handicapped, blindness or sex.

This plan utilizes the Fair Housing requirements for the Commonwealth of Massachusetts and its political subdivisions. The requirements shall be used to define and determine the Fair Housing obligations of the Town of Andover. This plan shall also be used by the Massachusetts Commission Against Discrimination (MCAD) in evaluating the fair housing performance of the Town of Andover.

The Town of Andover will address the Fair Housing issue in order to fulfill its obligations under the state and federal equal opportunity standards. The Town of Andover will conduct a comprehensive community profile which will identify over-concentration or under-representation of minorities and female headed households.

The Town of Andover shall then undertake an analysis of its community profile and shall make a careful evaluation of its programs and policies to determine if there exists a disparate impact of housing access. If after this analysis the Town determines that over-concentration or under-representation does exist, then the Town of Andover shall develop a Fair Housing Plan which provides a statement of goal, objective and policies designed to eliminate barriers to equal access and choice.

The Town of Andover shall create a Fair Housing Committee whose objectives and purposes are those set forth in the aims of Executive Order No. 227, Governor's Code of Fair Practice; Massachusetts General Laws, Chapter 151B; Administrative 75-14, Federal Executive Order No. 1063 EEO in Housing and the Federal Civil Rights Act of 1968, Title VIII – Fair Housing as amended by the Housing and Community Development Act of 1974.

The Fair Housing Committee will facilitate the coordination of the factors that affect housing and equal access to housing.

(9/83)

VII.2. Regional Housing Opportunity Partnership

In December of 1984, the communities of Andover, North Andover, Lawrence and Methuen, assisted by the Merrimack Valley Regional Planning Commission, formed the Regional Housing Fair Share Plan Committee to facilities housing opportunities throughout the area.

In order to continue the work of a regional housing opportunity partnership and to execute a Regional Housing Compact to address the area's housing needs, especially those of the central city, the four municipalities continue their support of a Strategic Planning Program coordinated by the regional planning commission.

The purpose of the housing partnership is threefold:

1. To function as a regional forum; and
2. To serve as a link between local entities and state/federal agencies; and
3. To function as a coordination mechanism between communities and housing agencies.

The goal is twofold:

1. To provide housing for those of modest income; and
2. To insure that those with the greatest housing needs are allowed fair opportunities on a regional basis to obtain affordable housing.

5/9/89

REAFFIRMATION OF VOTE

The Select Board reaffirms its support of the Regional Housing Fair Share Plan Commission by supporting the 1990 Regional Housing Compact. (On August 16, 1990, the Compact was formally signed by the Chief Elected Official or their representative of each of the four communities).

7/23/90

VII.3. Tax Classification

Tax classification was first approved by the Board in 1984. It was not the original intention for classification to become a permanent fixture; but, nevertheless, has been approved by the Board during every year since that time, though not usually unanimously.

Annual public hearings will be held, however, in order to review the impact of the current tax classification, to determine whether a change to the present structure is in order, and to allow for public input.

VIII. RECREATION

VIII.1. Haggetts Pond Usage

Upon recommendation of the Board of Health, the Select Board has voted to continue the practice of allowing rowboats, only, on Haggetts Pond, with permit and fishing license, and to not allow canoes, sailboats, windsurfers and/or any other waterborne craft.

It was further suggested to put signs around Haggetts Pond indicating this restriction.

(8/28/85)

VIII.2. Haggetts Pond Winter Use

In the interest of public safety, the Select Board hereby prohibits “ice fishing”, “ice skating”, or any other related ice activities on Haggetts Pond during the winter.

(9/14/87)

VIII.3. Poms Pond Resident Sticker Program and User Policy

The following policies have been adopted for the convenience and benefits of the residents of the Town of Andover:

1. Residents may purchase a seasonal beach sticker or pay the daily rate before entering the Pond area. Swim lesson students, as well as an adult, will be checked for proof of residency (including a valid driver’s license, vehicle registration and vehicle to purchase pass, library card, current utility bill).

A second sticker may be purchased for an additional cost. Auto registration(s) must be presented when purchasing stickers. Stickers must be affixed to the driver’s side passenger back window.
2. Non-residents over the age of 2 must purchase a sticker at a fee per person per day. This fee will be required throughout the day, including late afternoon hours at the discretion of the Department of Community Services.
3. Children under 10 must be accompanied by an adult.
4. Swimming is only allowed when guards are on duty

5. Swimming is allowed within bobber lines only.
6. Trash should be placed in barrels and cigarettes in cans provided.
7. Dogs are not allowed on the beach.
8. Consumption of alcoholic beverages is prohibited.
9. No Smoking

(6/4/90; updated: 2008)

VIII.4. Non-Motorized Forms of Transportation

The Town of Andover, through its Select Board, declares it to be the policy of the Town to promote, encourage and support pedestrian, bicycle and other non-motorized forms of transportation and recreation. In furtherance of this policy, the Town staff shall take actions wherever possible to promote the growth, accessibility and safe use of such alternative forms of transportation and recreation. Specifically, the Town supports traffic calming efforts, bicycle and pedestrian friendly enhancements and the continued development of community paths, trails and linkages.

July 26, 1999

IX. TOWN MEETING

IX.1. Ordering of Warrant Articles

Following consideration of “boiler plate” articles and the Town Budget at Town Meeting, the Select Board supports the general random ordering of Warrant Articles to eliminate the possibility of deliberate article placement to affect a predetermined outcome.

The Board reserves the right, however, to place one or two articles of high public interest in specifically determined positions in order to maintain a level of strong public attendance throughout the duration of Town Meeting.

X. WATER AND SEWER COMMISSIONERS

X.1. Sewer Commissioners Policy

Following standard “good engineering practices” it is expected that a thorough review by the Town’s Engineers, the Department of Public Works, the Board of Health and other appropriate departments will be completed prior to a review of any request of the Select Board acting in the capacity of Sewer Commissioners.

The purpose of a public hearing is for the Select Board, as Sewer Commissioners, to confirm the departmental reviews, to consider any concerns of said departments, and to allow for public comment. In general, however, matters will not be brought before the Sewer Commissioners unless and until all concerns have been addressed and satisfactorily resolved.

1/9/79

X.2. Self-sufficient Water & Sewer System

On June 4, 1984, the Andover Select Board adopted a policy of the gradual phase-in of a self-sufficient water and sewer system.

Subsequent votes of the Board, in consideration of periodic rate hikes in attainment of this goal, have been unanimously supported by the Board.

X.3. Sewer Betterment Abatement Requests

The following is the Town’s procedure for addressing sewer betterment abatement requests:

1. All abatements are to be received and date-stamped in by the Assessor’s Office on an application for betterment abatement form.
2. The Assessor’s Office will then send the application to the Department of Public Works for their review and recommendation and a copy of the application will be sent to the Town Manager’s Office.
3. The Department of Public Works will review the request and return the application to the Town Manager’s Office with either a recommendation to deny the abatement request or a recommendation to adjust the betterment assessment no later than ten (10) working days from receipt of the request.
4. If the DPW recommends denial of the abatement request, then the Town Manager is authorized by the Water and Sewer Commissioners to send the applicant a denial letter with a copy to the Assessor’s Office.

5. If the DPW recommends an adjustment to the betterment assessment, then the Town Manager's Office will schedule a hearing before the Select Board in their capacity as Water and Sewer Commissioners.
6. If the Select Board, in their capacity as Water and Sewer Commissioners, does not act on the sewer betterment abatement request within four months from the date of the receipt of the application by the Assessor's Office, then the application is considered a "constructive denial".
7. If the applicant wishes to appeal the decision of the Water and Sewer Commissioners, they must file application with the Commonwealth of Massachusetts, Executive Office of Administration & Finance, and Appellate Tax Board.

May 15, 2000

X.4. Sewer Betterment Assessment Policy for Land Not Built Upon

It is a goal of the Select Board to support the continued preservation of open space. Therefore, the Select Board seeks to encourage owners of property which has not been built upon to apply for a deferral of sewer betterment assessments in accordance with Massachusetts General Laws Chapter 83, Section 19.

Procedure

A property owner should make application for a deferral on a form to be provided after the Board of Assessors has added the sewer assessment charge to a property owner's tax bill. The Select Board may then vote to grant a deferral until the land is built upon or for a fixed time. As required by State law, such a deferral is subject to an interest charge of 4% of the assessment per year and the assessment must be paid in full within three months after the land is built upon.

Conservation Restrictions

The Select Board also wishes to promote the placement of conservation restrictions on land that has not been developed. The Select Board will abate sewer betterment assessment for parcels upon which a permanent conservation restriction approved by the Executive Office of Environmental Affairs has been recorded. The property owner is not required to make any payments for sewer betterment assessments for parcels that have a permanent conservation restriction.

MGL Chapter 83. Sewers, Drains and Sidewalks

Section 19. Assessments; extension of time for payment.

Section 19. The aldermen of a city or the sewer commissioners, selectmen or road commissioners of a town may extend the time for the payment of such assessments upon land which is not built upon until it is built upon or for a fixed time; but interest at the rate of four percent per annum shall be paid annually upon the assessment from the time it was made, and the assessment shall be paid within three months after such land is built upon or at the expiration of such fixed time.

March 19, 2001

X.5. Water Supply Protection

The Select Board supports the efforts of the Conservation Commission, the Planning Board and other Town agencies in their ongoing attempts to provide protection of the Fish Brook/Haggetts Pond Watershed area, which is the source of water supply in Andover.

Goals and Objectives, as well as policy alternatives (considerations) were articulated in a consultant's study in February of 1986 entitled "The Fish Brook/Haggetts Pond Watershed: Water Supply in Andover". Because of the devastating effects of water contamination, it is recommended that these points be considered by Town Departments as well as the Select Board when setting priorities and courses of action in connection with the Town's water supply.

GOALS AND OBJECTIVES

"The goals for Andover's Fish Brook/Haggetts Pond watershed policy should be to reduce the unfavorable impact of existing development and to minimize the unfavorable impact of future development on water quality to the extent necessary to protect human health and to prevent the unnatural acceleration of eutrophication in Haggetts Pond. Objectives which will serve the stated goals include":

- 1) Identify the rate of eutrophication and primary cause of eutrophication in Haggetts Pond;
- 2) Refinement of the Town's system for response to transportation-related spills of hazardous materials;
- 3) Regular inspection of septic systems followed by cleaning, repair, or replacement as needed;
- 4) Rigorous enforcement of Town regulations concerning septic system installation, repair and replacement, as amended for watershed protection;

- 5) Determination of the impact of farm animal wastes on water quality, with subsequent regulation if necessary;
- 6) Inspection for and repair of leaking sewers;
- 7) Regular monitoring of leachate from Ledge Road landfill with subsequent collection and removal from watershed if necessary;
- 8) Regulation of underground chemical storage tanks and other storage, use, or disposal of hazardous chemicals;
- 9) Continued acquisition of lands judged particularly critical for protection from development;
- 10) Management of Town-owned and AVIS-owned land in such a way as to protect water quality;
- 11) Minimizing impact of storm runoff by minimizing volume and velocity of, and concentration of contaminants in the water;
- 12) Reduction of use of fertilizers and pesticides;
- 13) Minimizing rate of erosion and sedimentation due to construction;
- 14) A public education campaign to increase awareness that drinking water quality is directly related to individual activities such as use of fertilizers, pesticides, phosphate detergents, underground fuel tanks, septic systems, and hazardous chemicals, and to publicize watershed boundaries and flow patterns;
- 15) Monitoring water quality at critical points in the watershed and at the Merrimack River intake, and responding to changes in water quality.

POLICY ALTERNATIVES

- 1) Septic System and Sewer
- 2) Land Acquisition
- 3) Watershed Information and Monitoring
- 4) Emergency Response to Transportation-related Spills of Hazardous Materials
- 5) Zoning
- 6) Ledge Road Landfill
- 7) Chemical and Fuel Storage
- 8) Public Education
- 9) Fertilizer and Pesticides
- 10) Management of Town-owned Lands
- 11) Runoff
- 12) Erosion and Sedimentation

- 13) Agricultural Runoff
- 14) Moratorium

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XI. LICENSING POLICIES

XI.1. GRANTING OF LICENSES/SPECIAL PERMITS

The following is a list of licenses and permits most commonly granted by the Town of Andover Select Board. Additional licenses and permits shall be reviewed according to state statute and Town Bylaws.

Every license or permit application which requires a public hearing with newspaper publication or notice to abutters, all liquor license change of manager applications and all Outdoor Dining License applications shall go before the Select Board for hearing in conformity with the General Laws. All other applications or permits shall first be referred to the Town Manager. In the case of licenses or permits where the Select Board is the statutory licensing or permitting authority, the Town Manager shall have the authority to approve, but not disapprove the same; and if the Town Manager does not approve he shall transmit the application to the Select Board for determination along with his recommendations. In all other cases the Town Manager shall have the right to approve, with or without conditions, modify or disapprove any such application. Notwithstanding the above, the Town Manager may refer any application to the Select Board for approval in the first instance if he deems it in the public interest to do so. Nothing herein shall be construed as a limitation on the Town Manager's authority over the rental and use of Town property under the Town Charter.

(See "Alcoholic Beverage License Policy" for additional policies and regulations specifically relating to Alcoholic Beverages Licenses).

COMMON LICENSES & PERMITS

ALCOHOLIC BEVERAGES LICENSES

AMUSEMENT AND LIVE ENTERTAINMENT LICENSES

AUTOMOBILE SALES – NEW, USED AND JUNK DEALERS

COMMON VICTUALLER LICENSES

LODGING HOUSES

OUTDOOR DINING LICENSES

PAWNBROKER/SECOND HAND DEALER LICENSES

STORAGE OF INFLAMMABLES

TAXI/LIVERY LICENSES

OTHER COMMON LICENSES AND PERMITS:

Auctions
Automatic Amusement Devices
Automobile Grave Yards
Bike-a-thons
Bicycle Races
Block Parties
Carnivals/Exhibitions
Hawkers & Peddlers and Transient Vendors
Junk Collector or Dealer
Moving Buildings in Public Ways
Road Races
Street Closings
Transient Vendors
Vigils

October 7, 2013



TOWN OF ANDOVER

XI.2.

ALCOHOLIC BEVERAGE LICENSE POLICY

**Select Board
Licensing Board**

**Licensing Agent for Board
Austin P. Simko
Town Clerk**

Revised and Adopted: October 7, 2013

XI.2. TOWN OF ANDOVER ALCOHOLIC BEVERAGE LICENSE POLICIES & REGULATIONS

Whereas, it is desirable to adopt uniform policies and guidelines for the administration of liquor licenses, the Select Board, the Local Licensing Authority for alcoholic beverage licenses under MGL Chapter 138, does hereby adopt the following policies and guidelines:

A. ADMINISTRATION OF LIQUOR LICENSES

1. The Town Clerk is the designated Licensing Agent of the Select Board. The Licensing Agent has the authority to accept and reject applications that do not meet the minimum requirements of the Alcoholic Beverages Control Commission and/or the Town of Andover. Upon recommendation from the Town Manager and the Chief of Police, a Police Officer will also be designated as an agent to the Select Board who will work with the Town Clerk to insure that the policies of the Select Board and the Massachusetts State Laws regarding Alcoholic Beverage Licensing are adhered to by all licensees.
2. Applications regarding Premises not actually in existence at the time of the application will not be approved unless and until a building permit has been issued by the Town of Andover and the applicant has filed with the application a plan showing the actual dimensions of the premises which are to be constructed on which the license is to be exercised. If construction of the premises is not completed at the time the license is approved, the license may be approved on the condition that construction shall be completed and as-built plans shall be filed prior to the issuance of the license.
3. Approvals of applications by the Select Board are valid for (6) six months from the date of approval by the Alcoholic Beverages Control Commission. If such time expires before the license is issued, due to the applicant's failure to meet all of the conditions imposed by the Board, the license will not be issued and the applicant must reapply and be reheard by the Board. Prior to the expiration of the (6) six month approval period, the applicant may petition the Select Board for an extension of the approval period not to exceed 2 months. The extension may be granted for good cause. No more than one extension may be granted.
4. A record of all liquor licenses issued by the Select Board, both as to premises and owner, shall be maintained in the office of the Town Clerk. Said file shall contain all applications, correspondence, decisions, etc. regarding the licensed premises, and other written information. The file of each owner and premises shall be reviewed annually at the time of the license renewal.
5. Andover, like other Massachusetts municipalities, is granted under MGL Chapter 138, a certain number of wine & malt beverages only pouring licenses and a certain number of all alcohol pouring licenses based on population. In the event a municipality has issued its maximum allowable wine & malt pouring licenses the local licensing authority has the

discretion to issue additional wine & malt beverages pouring licenses, provided that an all alcohol pouring license is retired for each such wine and malt beverage pouring license issued. The Board will consider applications for the issuance of wine & malt beverages pouring licenses under these circumstances on a case by case basis. The Board may issue the same if determined to be in the best interests of the Town. The Board may in its discretion impose additional fees for such licenses to offset the revenue lost by retirement of an all alcohol pouring license.

B. LIQUOR LAW VIOLATIONS

1. When, after hearing, it is determined by the Select Board that a violation of the liquor laws of the Commonwealth of Massachusetts has occurred or a licensee has failed to comply with the conditions of the license or these policies and regulations, the Select Board shall consider the appropriate disciplinary action. In determining the appropriate disciplinary action to be taken, the Select Board shall consider the following:
 - (a) the written record of the establishment on file within the Office of the Town Clerk during the preceding 36 calendar months and any prior infractions during this period.
 - (b) the particular merits of the case presented at the hearing inclusive of such factors as intent, culpability of the parties, and such other factors as the Board may deem relevant.
 - (c) the extent to which the owner, proprietor or operator has established procedures to guard against infractions.
 - (d) cooperation of the establishment owner, proprietor, and operators with the Town Clerk, Police Department, inspectors, and other Town officials in the conduct of its business.
 - (e) such recommendations as the Town Manager may present.
2. In general, in matters of first offense, the Board shall consider the issuance of a letter of reprimand to the owner and his representative, if there is one, a copy of which shall be placed on file in the license record of the office of the Town Clerk.
3. In matters of a second offense within the period of 36 calendar months the Board shall consider the issuance of a suspension for a period of 1-14 consecutive calendar days and shall so state the period of suspension.
4. In matters of a third or subsequent offense within 36 calendar months, the board shall consider a second suspension for a period of 1-30 consecutive calendar days and/or revocation of the license.

5. All of the above are general guidelines for the Select Board in its deliberations regarding infractions found against the licensed establishment, licensee, owner, proprietor, or other operators. Each case shall be considered upon its individual merits. The Board reserves the right to impose penalties in excess of the above if deemed appropriate.

C. LIQUOR LICENSES – IN GENERAL

1. Liquor licenses are issued under authority of MGL Chapter 138. Any new application for a license to sell alcoholic beverages, or for a change in an existing license, must be accompanied by the appropriate application fee.
2. Every liquor license application which requires a public hearing with newspaper publication or notice to abutters and all applications for change of manager shall go before the Select Board for hearing in conformity with the General Laws. All other liquor license applications shall first be referred to the Town Manager who shall have the authority to approve, but not to disapprove the same. If the Town Manager does not approve he shall transmit the application to the Select Board for determination along with his recommendations; and provided further, that the Town Manager may refer any application to the Select Board for approval in the first instance if he deems it in the public interest to do so.
3. If approved, the application is transmitted to the Alcoholic Beverages Control Commission (ABCC) for its approval. If disapproved the applicant may appeal to the ABCC under the provisions of MGL Chapter 138.
4. The Select Board, under the authority granted by MGL Chapter 138, shall set the hours of operation for any on-premise establishment. Once the operating hours are granted to any licensee, a change in these hours can be made only after a public hearing before the Select Board.
5. Any licensee intending to close the licensed premises must notify the Select Board in writing ten (10) days before such closing and shall state in the notice the reason for such closing and the estimated length of such closing. Any licensee intending to close for more than sixty (60) days must appear before the Board to discuss the status of the license.
6. No licensee shall conduct business under any corporate or trade name other than that under which it is licensed.

D. MANAGER/CHANGE OF MANAGER

1. The Manager of the licensed premises is the principal representative of the licensee with full authority and control of the licensed premises and of the conduct of all business therein relative to alcoholic beverages as provided in MGL Chapter 138, Sec. 26.

2. By the close of the next business day following the termination of employment of the Manager for any reason, the licensee must notify the Town Clerk, in writing, of the name of the person who will discharge the duties of Manager pending selection and approval of a new Manager. If, at any time, there is a change in the Manager of record for the licensed premises, an application for change of Manager must be filed no later than thirty (30) days after the effective date of the change.
3. The Board may impose a penalty for failure to file a timely application for change of Manager, which may include a penalty of suspension that may be up to one day of suspension for each day of non-compliance, unless the Board finds that there were circumstances which excused the non-compliance.
4. Except as otherwise provided in the Massachusetts General Laws or approved by the Select Board, the Manager must be a full time employee or a corporate officer of the licensee, and must be engaged exclusively in the management of the licensed business.
5. The Manager shall be on the licensed premises regularly in the course of business, consistent with the permitted hours of operation. When the Manager is not upon the premises, a method of contacting the Manager promptly must be arranged so that the Manager can be reached at all times by the person designated to be in charge of the premises. The Manager shall designate an Assistant Manager to be responsible in his or her absence. However, the Manager will continue to be responsible for the operation of the licensed premises whether or not on the premises.
6. Without limiting the scope of the previous subsections and without limiting the penalties which may be imposed on the licensee for violation of these regulations, the Manager shall be responsible for the following:
 - (a) Careful selection of qualified employees of the licensed business, including servers, clerks and persons who are engaged with the public in any capacity.
 - (b) Training of employees in all matters relating to the sale or service of alcoholic beverages. The Board strongly advises managers and all employees as they are hired to participate in a State recognized alcohol training program.
 - (c) Failure of the Manager to comply with these policies and regulations or to properly discharge the duties of Manager may result in removal as Manager or suspension or revocation of the license as may be appropriate to the circumstances.

E. **ADDITIONAL PROVISIONS**

1. Assignment of stock in a corporation granted an Alcoholic Beverage License gives no right to such assignee to conduct the business of the licensee without approval of the Select Board and the ABCC. Licensees must immediately file a Petition for a Transfer of Stock when the assignee forecloses under such assignment of stock.
2. Licensees shall immediately notify the Select Board of any proceedings brought against them or any proceedings brought by themselves under the Bankruptcy Laws.
3. Licensees shall immediately notify the Board of any court or administrative proceedings which may affect the status of the license.
4. No person may have a direct or indirect beneficial interest in any type of Alcoholic Beverage License without obtaining approval from the Town and the Alcoholic Beverage Control Commission.
5. All alcoholic beverages must be opened and consumed on the premises, unless removed in accordance with the provisions of MGL Chapter 138, Section 12. (applicable to Section 12 Licenses)
6. Last call shall be no later than thirty (30) minutes before the licensed closing hour. No alcoholic beverages may be served after last call. (applicable to Section 12 Licenses)
7. All tables and bars must be cleared of all glasses, bottles, and containers of alcoholic beverages by the licensed closing hour (applicable to Section 12 Licenses) and all customers must be off the premises by the licensed closing hour.
8. Owners and employees must be off the premises no later than thirty minutes after the licensed closing hour, except such owners and employees may be on the premises for the purpose of cleaning, making emergency repairs, providing security for such premises, or preparing food for the next day's business or opening or closing the business in an orderly manner. No employee or owner shall serve or consume any alcoholic beverage on the premises before the licensed opening hour or after the licensed closing hour. (applicable to Section 12 Licenses)
9. No licensee shall keep for sale, store or sell alcoholic beverages in any part of the premises not specified on the license.
10. No licensee shall make any distinction, discrimination or restriction on account of race, color, religious creed, national origin, sex or ancestry relative to the admission or treatment of customers.
11. A license is subject to suspension, revocation, or forfeiture for breach of any of its conditions or regulations, or any law of the Commonwealth.

12. All licenses and building certificates shall be displayed on the premises in a conspicuous manner where they may easily be seen and read.
13. Any changes to an Alcoholic Beverage License must be approved by the Select Board or the Town Manager under authority of Section C. 2, including but not limited to: transfer of license, change of manager, transfer of stock, new officers and/or directors of a Corporation, change of stockholders in a closely held Corporation, pledge of license, change of Corporation name, change of d/b/a, change of premises including reduction or extension of the area of the licensed premises, or a change in the physical layout of the premises.
14. Licensed premises shall be subject to inspection by the Police Department, Fire Department, Inspector of Buildings and/or any duly authorized agent of the Select Board or Alcoholic Beverage Control Commission.

F. EVENTS WITH ALCOHOL IN GENERAL – SPECIAL LICENSES

1. One Day Special Licenses are issued by the Town Manager pursuant to MGL Ch. 138 Section 14.
2. Alcohol served at events held outside of a private residence are presumed to result in a sale of alcohol. As such, a One-Day Special License under Chapter 138 Section 14 shall be required for such events, unless such event falls within an exception stated in this policy. In the case of events held by private residents, outside of their private residence, the Town shall not require a special license where: 1) the event is by invitation only, 2) money is not exchanged for alcohol, 3) tickets are not sold, 4) a donation is not required or solicited, or 5) an entrance fee is not charged.
3. Businesses or charities which hold events where liquor is served are required to obtain a One-Day Special License unless evidence is provided to the Licensing Agent which rebuts the presumption of a sale. The Licensing Agent shall determine whether a Special License is required under Chapter 138 Section 14, and applicable rules and regulations. In making such a determination, the Licensing Agent shall consider such evidence as the location of the event, the purpose of the event, who is invited to the event, what fees are charged for the event, and other relevant information.
4. Charities which have wine donated must apply for a Charitable Wine Pouring or Charitable Wine Auction.
5. Events at the Town House – Special Requirements
 - (a). All businesses or organizations holding events at the Town House must file an application for a One-Day Special License with the Town Clerk. The Town Clerk's Office will determine if a License is necessary.

- (b). Private individuals holding events at the Town House where alcohol is sold, tickets are sold, or an entrance fee is charged, must obtain a One-Day Special License. These events are only eligible for a Beer and Wine License.
 - (c). Private individuals holding private parties or events at the Town House are not required to obtain a One-Day Special License where: 1) the event is invitation only and 2) alcohol is not sold, tickets are not sold, a donation is not required or solicited, or an entrance fee is not charged.
 - (d). In all cases, where alcohol is served, it must be served by a caterer or bar service who has presented evidence of liquor liability insurance to the Town. The Town has the right to reject any requests to serve alcohol at the Town House regardless of whether a Special License is required.
6. For events that require a One-Day Special License, all alcohol must be purchased from a licensed Massachusetts wholesaler, in compliance with M.G.L. Chapter 138, Section 14, or a Caterer licensed under M.G.L. Chapter 138, Section 12C. Alcohol may not be purchased from any other source. A list of wholesalers is available at the Town Clerk's Office or through the State Alcoholic Beverages Control Commission.
 7. Special licenses may be issued only to a natural person or a natural person in conjunction with a business, organization, or charity. The person named on the Special License must sign the application for the license. The person named on the license is responsible for management of the license and shall be on the premises for the entire event. The person named on the license shall be a United States citizen.
 8. All Alcoholic Special Licenses shall only be issued to a non-profit organization. Proof of an organization's non-profit status may be required.
 9. A person or entity may only be issued a maximum of 30 One-Day Special Licenses in any calendar year.
 10. Holders of Section 12 or Section 15 licenses, that are not Massachusetts licensed wholesalers, are subject to disciplinary action by the Select Board if such licensee is found to have illegally sold alcohol to Section 14 license holders.
 11. No alcohol may be stored on any unlicensed premise. For special events covered under a One-Day Special License, alcohol must be delivered the day of the event and removed from the premises after the event at the expiration of the Special License. Under State Alcoholic Beverages Control Law, M.G.L. Chapter 138, Section 22, holders of a One-day Special License may not transport alcohol without a permit. A caterer may transport alcohol on behalf of a Special License holder only if that caterer has a current transport permit issued by the Alcoholic Beverages Control Commission.

12. Holders of a One-Day Special License must provide patrons with, or sell to patrons, substantial food, as determined by the Public Health Division, that can be procured and consumed in close proximity to where the alcohol is served, in accordance with guidance prepared by the Public Health Division.
13. The licensee shall post the Special License in a conspicuous location during the event.
14. No special licensee may sell or deliver any alcoholic beverages between the hours of 2:00 a.m. and 8:00 a.m. Special licensees may sell or serve alcoholic beverages between the hours of 11:00 a.m. to 1:00 a.m., Monday through Saturday, and 12:00 p.m. to 1:00 a.m. on Sundays. Notwithstanding the foregoing, the Select Board may alter the specific hours and terms of sale and service of alcohol.
15. The Town Manager may refuse to issue or reissue a special license, if the licensee fails to comply with state or local regulations or any reasonable requirements of the local licensing authority. The Select Board may suspend, cancel or revoke a special license, after a hearing, if the licensee fails to comply with state or local regulations or any reasonable requirements of the local licensing authority.

G. SPECIAL LICENSE: FARMER-WINERY & FARMER'S MARKET
(Chapter 138, Section 15F)

1. Pursuant to MGL Chapter 138 Section 15F, the Town may issue a Farmer's Market Permit to applicants who are farmer brewers (M.G.L. c. 138, § 19C), pub brewers (M.G.L. c. 138, § 19D), and farmer distillers (M.G.L. c. 138, § 19E). The Town may also issue a Farmer-Winery Special License to an applicant authorized to operate a farmer-winery under Section 19B of Chapter 138, or any other state, a special license for the sale of wine produced by or for the licensee for off-premises consumption at an indoor or outdoor agricultural event.
2. All sales shall be conducted by an agent, representative, or solicitor of the licensee to customers who are at least 21 years of age.
3. A licensee under this section may provide, without charge, samples of wine and malt to prospective customers at an indoor or outdoor agricultural event in conformity with said Section 15F as the same may be from time to time amended.
4. The term "agricultural event" shall be limited to those events certified by the Department of Agricultural Resources as set forth in said Section 15F. A copy of the certification, with all supporting documentation submitted to the Department, shall be submitted to the Town Clerk with the license application.
5. A license may be granted for an indoor or outdoor agricultural event which takes place on multiple dates and/or times during a single calendar year, but no special license shall be granted for an agricultural event that will not take place within one calendar year.

6. The license application form shall be prepared by the Town Clerk and shall be made available on request. The application shall be signed on behalf of the applicant by a natural person duly authorized by the applicant and by the agent, representative or solicitor (as those terms are used in section 15F) on his or her own behalf. The authorized signer for the applicant and the agent, representative or solicitor may be the same person.

H. SECTION 12 POURING LICENSE PREMISES: GOLF COURSES

1. When acting on an application to license the sale and service of alcohol on a golf course the Select Board shall take into account the distance from residential dwellings, schools, and/or churches, the character of the surrounding neighborhood, noise, lighting, other licenses in the area and any and all other reasonable and proper concerns.
2. The specific location of stationary stands and/or structures for the sale and service of alcohol within golf course premises shall be approved the Board. Stationary stands and/or structures must serve within the approved location. Approval of the serving location shall take into account the distance from residential dwellings, schools, and/or churches, the character of the surrounding neighborhood, noise, lighting, other licenses in the area and any and all other reasonable and proper concerns.
3. The Select Board's approval of premises that are intersected, interrupted or divided by public ways is conditional upon the applicant receiving a transportation permit from the Alcoholic Beverages Control Commission.
4. No licensee shall permit any patron to possess alcoholic beverages on the grounds of approved golf course premises other than those alcoholic beverages purchased from that licensee
5. No licensee shall permit any patron to carry or transport any alcoholic beverages off the grounds of approved golf course premises.
6. No licensee shall permit any patron to carry or transport any alcoholic beverages on any public way.
7. Alcohol is not permitted in parking lots. No parking lot shall be included in the description of the licensed premises. Parking lots of a golf course will be treated the same as a public way.
8. At the intersection of each cart path with a public way, at the edge of parking lots, and other approved locations bordering the course the licensee shall erect sign posts with the following required signage / information:

“No alcoholic beverages permitted beyond this point.”

“Operating a golf cart while under the influence is a criminal offense punishable by law.”

“Possessing an open container of alcohol on a public way is a criminal offense.

These signs shall be in a conspicuous place where these signs can be easily read. The licensee shall post these signs regardless of whether or not the licensed premises extend beyond the public way or not.

9. At the intersection of each cart path with a public way, at the edge of parking lots, and other approved locations bordering the course the licensee shall place receptacles for beverage containers.
10. No more than two drinks shall be sold, delivered or in the possession of any one patron at any time while on the grounds of the approved golf course premises.
11. Alcohol must be properly stored and secured at all times. Alcohol shall not be stored overnight in wheeled carts.

I. SECTION 12 POURING LICENSE PREMISES: PATIOS AND OUTDOOR AREAS

1. When acting on an application to license the sale and service of alcohol on a patio and/or outdoor area the Select Board shall take into account the distance from residential dwellings, schools and/or churches, the character of the surrounding neighborhood, noise, lighting, other licenses in the area and any and all other reasonable and proper concerns.
2. Preferred are areas where alcohol is served to patrons who are seated at tables and where food is available.
3. The patio and/or outdoor area must be contiguous to the licensed premises and the licensee shall have a view of the outdoor premises from inside or staff shall be present in the serving area at all times. A clear path of ingress and egress from the inside to the outside must be clearly established to ensure safe, uninterrupted travel of patrons and the service of alcoholic beverages. The patio and/or outdoor area must have adequate exits in case of emergency.
4. The premises must be enclosed by a fence, rope or other means to prevent patrons or members of the public from wandering in or out and ensure the licensee has control of the area.
5. No licensee shall permit any patron to possess alcoholic beverages on the licensed patio or outdoor area other than those alcoholic beverages purchased from that licensee.
6. No licensee shall permit any patron to carry or transport any alcoholic beverages off the grounds of the approved patio and/or outdoor premises unless otherwise authorized by State Law.

7. Alcohol is not permitted in parking lots. A parking lot shall not be considered a patio or outdoor area under this policy. No parking lot shall be included in the description of licensed premises.
8. Licensees shall act reasonably and diligently to disperse loiterers or patrons who attempt to congregate outside the licensed patio and/or outdoor premises, especially those on public sidewalks and those in parking lots.
9. Alcohol must be properly stored and secured at all times. Alcohol shall not be stored overnight in outdoor areas and/or on patios.
10. Nothing in this policy shall be interpreted as an endorsement of the drinking and or serving of alcohol on public sidewalks or any outdoor area owned, maintained, or controlled by the Town, except pursuant to a license issued under Policy XI.5 "Regulations For Outdoor Dining Licenses".

J. HOURS OF OPERATION

Section 12 - Pouring Licenses:

Mon-Sat: 11:00 A.M. to 1:00 A.M.
*Sunday: 12:00 P.M. to 1:00 A.M.

*Licensees may apply for permission to open at 10:00 A.M. on Sundays.

Section 15 - Package Stores:

Mon-Sat: 8:00 A.M. to 11:00 P.M. (11:30 P.M. on the day before a legal holiday)
Sunday: Noon to 11:00 P.M. (11:30 P.M. on the day before a Monday legal holiday)

K. SUNDAY PACKAGE STORE OPENINGS

The retail sale of alcoholic beverages not to be drunk on the premises is permitted on Sundays by retail establishments licensed under M.G.L. Chapter 138, Section 15; provided, however, that there shall be no such sales prior to the hour of 12:00 noon or on Christmas Day if Christmas occurs on a Sunday; and provided further, that establishments operating under this clause which employ more than 7 persons shall compensate all employees for work performed on a Sunday at a rate of not less than one and one-half of the employee's regular rate. No employee shall be required to work on a Sunday and refusal to work on a Sunday shall not be grounds for discrimination, dismissal, discharge, reduction of hours or any other penalty. (See M.G.L. Chapter 136, Section 6)

L. ALCOHOLIC BEVERAGE LICENSES ON TOWN OWNED PROPERTY

The Consumption of alcohol is not allowed on Town owned property, except 1) at the Town House under controlled conditions; i.e., such alcohol must be served by a person in the employ of a caterer or bar service who has presented evidence of liquor liability insurance to the Town; 2) pursuant to an Outdoor Dining License issued in conformity with Policy XI.5 “Regulations For Outdoor Dining Licenses,” or 3) pursuant to a Special License for Outdoor Events on Town owned property approved by the Select Board and issued in conformity with Policy XI.2.N “Special One-Day Alcohol License Policy and Application for Outdoor Events on Town-Owned Property.”

M. FEES: ALCOHOLIC BEVERAGE LICENSES

The following are the fees that are charged in the Town of Andover for Alcoholic Beverage Licenses at the time of the issuance of the License and for the renewal of the license.

LIQUOR LICENSES	TOWN	ABCC
Innholder - All Alcoholic	Application 125.00	200.00
	Fee 4500.00	-----
Restaurant - All Alcoholic	Application 125.00	200.00
	Fee 4500.00	-----
Retail Pkg. Goods - All Alcoholic	Application 125.00	200.00
	Fee 2000.00	-----
Club - All Alcoholic	Application 125.00	200.00
	Fee 2000.00	-----
Retail Pkg. Goods - Wine & Malt	Application 125.00	200.00
	Fee 1500.00	-----
Restaurant - Wine & Malt	Application 125.00	200.00
	Fee 2000.00	-----
Innholder - Wine & Malt	Application 125.00	200.00
	Fee 2000.00	-----
One-Day All Alcoholic	50.00	
One-Day Wine & Malt	50.00	

Charitable Wine Pouring 75.00

Farmer-winery and Farmer's Market
Permits (MGL Ch. 138 Sec. 15F) 50.00

Fees for a new license, other than a one-day license, a Charitable Wine Pouring license or a Farmer-winery license, will be adjusted on a quarterly basis over a twelve (12) month period from January 1st thru December 31st, i.e., on April 1st, July 1st and October 1st, and will be effective as of the date of the issuance of the license.

**N. SPECIAL ONE-DAY ALCOHOL LICENSE POLICY &
APPLICATION FOR OUTDOOR EVENTS ON TOWN OWNED
PROPERTY**

1. The Select Board may grant a special license pursuant to M.G.L. Chapter 138 Section 14 for the sale of wine and malt beverages only, or either of them for an outdoor event on such Town property as it, in its discretion, deems to be suitable for such event in accordance with this policy and on such terms and conditions as it deems to be in the best interest of the Town.
2. A Special License for the sale of wine and malt beverages only, or either of them, on town property may be granted to the responsible manager of a non-profit organization conducting an outdoor event on Town property on terms and conditions approved by the Select Board.
3. A Special License for the sale of wine and malt beverages only, or either of them, on town property may be granted to the responsible manager of any enterprise in support of a community event on terms and conditions approved by the Select Board.
4. This policy shall also apply to property under the care, custody and control of the Andover School Committee and the Andover Conservation Commission. The School Committee and Conservation Commission shall, with regard to property under their respective care, custody and control, first approve applications brought under this policy before the applicant may seek final approval from the Select Board.
5. Outdoor sale and consumption of wine and malt beverages may occur only in a defined outside area described in the application and approved by the Select Board.
6. Consistent with Section 14 of Massachusetts General Laws Chapter 138, a responsible manager and alternate shall be named by the organization, one of whom shall be on the premises at all times while alcohol is being served. The responsible manager must be at least 21 years of age. The name(s) and 24-hour contact information shall be on file with the Office of the Town Manager and Police Services Division.

7. The Local Licensing Authority (Select Board) may impose reasonable conditions and limitations on any Special License that is granted, including but not limited to the description of the Licensed area, the hours of operation and the presence and payment for a police detail(s), and any custodial or other town personnel assigned to the event.
8. The applicant must present a security plan to the Andover Police Department before filing an application. This security plan must include provisions for crowd control, dealing with unruly patrons, emergency evacuations, traffic/parking considerations, and controlling access to alcohol by under aged persons. Unless circumstances warrant otherwise, the security plan will require one police officer for an event that 150 people are expected to attend and two officers for an event that 300 or more people are expected to attend. *The Chief of Police, or his or her designee, must sign off on this application as to the security plan for the event before the application is filed with the Select Board.* Moreover, applicants must demonstrate that people who will be serving alcoholic beverages are at least 21 years of age and that at least one person who will be staffing each point of service of alcoholic beverages has certification in TIPS or comparable safety training.
9. The application shall also be reviewed and signed off on by Andover Fire Rescue, Public Works, the Public Health Division and Inspectional Services before the application is filed with the Select Board.
10. Holders of a One-Day Special License must provide patrons with, or sell to patrons, substantial food, as determined by the Public Health Division, that can be procured and consumed in close proximity to where the alcohol is served, in accordance with guidance prepared by the Public Health Division.
11. Unless otherwise voted by the Select Board, each Special License shall cover a single event.
 - a. A Special License is granted for a single event only. A separate Special License may be granted for each day of an event if the event takes place on more than one consecutive day.
 - b. The fee for a Special License shall be charged on a per-day basis, \$50.00 for day one and \$25.00 for each additional consecutive day due with application submittal. Please make check out to the: Town of Andover.
12. The Select Board reserves the right to decline to consider any application filed later than 30 days before the proposed event. The Board may require the filing of references by the applicant at its discretion. The application shall be in the form prescribed in this policy and shall be submitted to the Town Clerk.
13. The Licensee (and their heirs, successors and assigns in interest) shall indemnify, defend and save harmless the Town of Andover, its officers, employees, agents, board members and volunteers from and against all suits, actions, claims, demands, damages, losses, expenses, and costs of every kind and description including reasonable attorneys' fees relating to or

arising from the event, and shall release the Town of Andover, its officers, employees, agents, board members and volunteers from any and all suits, actions, claims, demands, damages, losses, expenses, and costs of every kind and description, including reasonable attorneys' fees related to or arising from the event.

14. The Licensee shall carry or require that there be carried Workers' Compensation Insurance for all employees engaged in work at the event, in accordance with the State Workers' Compensation Laws. The Licensee shall furnish a certificate of insurance to the Town evidencing coverage of Workers' Compensation Insurance. In addition, the Licensee shall carry Commercial General Liability Insurance, and Liquor Liability Insurance, with limits hereinafter set forth to cover the Licensee, its employees and/or volunteers and the Town against claims which may occur or result from operations under this Agreement. Such insurance shall cover the use of all equipment related to the provision of outdoor dining services. The Commercial General Liability Policy and Liquor Liability Insurance Policy, shall insure against all claims and demands for bodily injury and property damage related to the event. The Applicant must provide explicit proof of insurance for damages caused by any person and not just the Applicant to the Town property upon which the event will occur. Every policy shall have limits of at least \$1,000,000 per occurrence, \$1,000,000 per occurrence for damage to rented premises, and \$2,000,000 in the aggregate. The Town shall be named as an "additional insured" in all Commercial General Liability and Liquor Liability policies for such insurance with specific reference as to coverage related to this License. All such policies shall provide a waiver of subrogation in favor of the Town. Prior to the issuance of the License, the Licensee shall furnish a certificate of insurance to the Town certifying the above insurance requirements including a specific reference to at least a \$1,000,000 limit for damages to rented premises, and a copy of an endorsement that the Town is an additional insured and a copy of an endorsement including waiver of subrogation prior to the issuance of the License.
15. Special Licenses shall not be granted to any person for more than a total of 30 days in any calendar year.
16. A Special License shall not be granted to any person who has an on-premise license application pending.
17. Alcoholic beverages must be purchased from the list of Authorized Sources published by the Alcoholic Beverages Control Commission.
18. Documentation of non-profit status in a form satisfactory to the Select Board shall be submitted at the time of application from a non-profit organization.
19. The terms and conditions of each License shall be contained in a License Agreement approved by the Select Board and signed by an authorized representative of the Licensee prior to the issuance of the License.

20. The Licensee shall be responsible for cleaning the Town property after the event and shall leave the property in the same condition it was before the event. The Licensee shall deposit the sum of \$1000.00 with the Town as security for such cleaning. Funds shall be returned after the event if the Town property is in satisfactory condition. If the funds deposited are not sufficient to restore the property or repair any damages, the Town may recover the cost of repair or restoration from the Licensee, in addition to any other remedies that the Town may have.

21. Organizers of any event requiring a Special Alcohol License must comply with state statutory and regulatory requirements, which can be found on the website of the Alcoholic Beverages Control Commission: WWW.MASS.GOV/ABCC. See Chapter 138, Section 14, of the Massachusetts General Laws and 204 C.M.R. 7.00. If necessary, organizers should consult private counsel to ensure compliance with these legal requirements.

XI.3. TOWN OF ANDOVER RULES & REGULATIONS FOR PUBLIC VEHICLES FOR HIRE

In accordance with the provisions of MGL Ch. 40, Sec. 22 and the Town Bylaws, Art. XI, Sec. 1, the following conditions are placed on owners and operators of public vehicles for hire in the Town of Andover:

SECTION I: OWNERS LICENSE

A. Definitions.

For the purpose of these rules, the following words and phrases shall have the meanings respectively ascribed to them as follows:

Operator

A person who has an operator's license from the Commonwealth to operate motor vehicles.

Vehicle for Hire

A license granted by the Select Board and issued by the Town Clerk for the operation for a vehicle for hire business.

Vehicle for Hire Operator's License

A license issued by the Chief of Police for the operation of a vehicle for hire.

Taxicab

A metered or un-metered motor vehicle with a seating capacity that does not exceed nine (9) persons, including the operator, that is operated for hire by or on behalf of the named insured or by an employee, but does not pickup, transport, or discharge passengers along a route. A taxicab can be hailed by a person from the street.

Livery Vehicle

An unmarked motor vehicle for hire with seating capacity that does not exceed nine (9) persons, including the operator, which:

- a. Is hired on a prearranged basis
- b. Does not pick up hail fares on the street
- c. Does not contain a rate meter and does not charge for services based upon miles traveled if the trip is less than twenty-five (25) miles
- d. Is operated by the named insured, an employee, or an independent contractor of the named insured in attendance as the chauffeur
- e. Primary method of payment is by billing or credit card

Waiting Time

Any period of time that a vehicle for hire, in the service of a passenger, shall be in an idle position waiting upon the convenience of the passenger.

B. License – Required

No person shall set up, employ or use for the conveyance of passengers for hire, any motor vehicle, coach, cab or other means of conveyance, without a license from the Select Board.

C. License – to be Granted by Select Board; Term; Revocation, Etc.

The Select Board may grant licenses for a term of one year upon such terms and to such persons who serve the public need or convenience to set up, employ or use for the conveyance of persons within the Town, for vehicle for hire, which licenses shall be revoked or suspended at any time by the Select Board for any violation of the provisions of these rules or any bylaw of the Town, and may be revoked by the Select Board for other causes, and a record of such licenses shall be kept by the Town Clerk. Licenses for all such vehicles shall expire on the first day of May of each year.

D. License – Qualifications of Licensee

Every person granted a vehicle for hire license under these rules shall be duly established in the particular type of business for which the license has been granted, making it a substantial part of his or her daily labors.

E. Application for Licenses Generally; Fees

Vehicle for Hire licenses offered under these rules shall only be issued to single-vehicle businesses and not multi-vehicle businesses, and the applicant, or a member of the applicant's firm, must reside in the Town of Andover and not merely operate through a commercial address or a PO box address. No vehicle for hire license shall be issued unless the person owning or in possession of such vehicle, shall file with the Town Clerk, a petition addressed to the Select Board, setting forth the name and residence of the applicant, who in no event shall be less than twenty one years of age. The petition shall also state the make, the year, the Vehicle Identification Number (VIN), the type of vehicle, the owner of the vehicle to be used, the state registration number, the location for the garaging of the vehicle, and shall be accompanied by an application fee of \$150. All statements in the petition shall be sworn to. If the petition is made by a corporation, the same shall be sworn to by the President and Treasurer of the corporation and shall set forth the names and residential addresses of all the officers and directors of the corporation. Forms to be provided by the Town Clerk. Each taxicab shall have a Massachusetts Registry of Motor Vehicles Taxi Registration, each livery vehicle shall have the appropriate Massachusetts Registry of Motor Vehicles Registration. Annual

renewal applications shall be accompanied by a fee of \$100, as well as all aforementioned documents.

F. **Insurance Policy – Required**

No license required by these rules shall be issued until the applicant has acquired a policy of insurance and has delivered to the Town Clerk a certificate thereof issued by an insurance company authorized to transact business specified in sub-division (b) of Section 47 of Chapter 175 of the General Laws, covering the motor vehicle to be operated by the applicant under his or her license, conforming to the provisions of Sections 112 and 113 of Chapter 175 of the General Laws, nor until the applicant has also delivered to the Town Clerk a certificate of the insurance company issuing the policy showing that the policy shall not be canceled or in any manner amended, changed or altered without giving the Town Clerk 10 days notice thereof.

G. **Liability and Property Damage Covered in Policy; Amount**

The insurance policy required by the preceding section F shall be a policy of liability insurance which provides indemnity for or protection to the insured, and any person responsible for the operation of the insured's vehicle with the insured's express or implied consent against loss by reason of the liability to pay damages to others for bodily injuries, including death at any time resulting therefrom, sustained during the term of the policy by any person, other than employees of the insured, or, of such other person responsible as foresaid, who are entitled to payments or benefits under the provisions of Chapter 152 of the General Laws, and arising out of the ownership, operation, maintenance, control or use upon the ways of the Commonwealth of such vehicle, to the amount or limit of at least Two Hundred and Fifty Thousand Dollars (\$250,000) on account of injury to or death of any one person, and, subject to such limits as respects injury to or death of any one person, of at least Five Hundred Thousand Dollars (\$500,000) on account of any one accident resulting in injury or death of more than one person. In addition, the owner shall carry a property damage policy in the amount of Fifty Thousand Dollars (\$50,000).

H. **Certified Statement of Letter Acceptable in Lieu of Certificate**

The Town Clerk may accept a statement in writing from an insurance company certifying that a policy of insurance is to be issued to the applicant and identifying the vehicles insured in lieu of the certificate of insurance. The certificate of insurance shall be filed with the Town Clerk immediately following preparation and issuance of the policy of insurance.

I. **Notice Required of Actions Instituted Against Policy**

A licensee or a person responsible for the operation of a licensee's vehicle with the express or implied consent shall immediately, upon the service of any writ or summons in

any action for the payment of damages which are covered by such policy, give written notice to the Chief of Police of the bringing of such action.

J. **Name of Insurer Furnished on Request**

The Town Clerk shall, upon request of any person, furnish the name of the company issuing an insurance policy referred to in these rules covering any particular vehicle licensed and shall exhibit the certificate of insurance to any such person or his or her duly authorized representative.

K. **Termination of License Upon Cancellation or Expiration**

Any license issued under these rules shall terminate upon the canceling or the expiring of the policy of insurance required by section G. covering the vehicle licensed.

L. **Sale, Etc. of Vehicle for Hire License**

No vehicle for hire license shall be sold, transferred or assigned without the consent of the Select Board.

M. **Change in Vehicles Used as Vehicles for Hire**

When vehicle for hire owners change vehicles, they shall immediately bring the new registration certificate to the Police Department and the Town Clerk's office. After being properly recorded by the Town Clerk, the new vehicle shall become a licensed vehicle for hire. The Town Clerk shall collect a \$25.00 administration fee for each change of vehicle.

N. **Vehicle for Hire Rates**

1. **Taxicab/Livery**

Flat rate service will be no greater than follows and will be set by the Select Board:

Within Andover	\$20.00
Andover – North Andover	\$20.00
Andover – Lawrence	\$20.00
Andover – Methuen	\$30.00
Andover – Haverhill	\$40.00
Andover – Lowell	\$40.00
Andover – Reading	\$40.00
Andover – No. Reading	\$30.00
Andover – Tewksbury	\$30.00
Andover – Salem – NH	\$40.00

Andover - Logan Airport	\$90.00/5.00 each add'l person
Andover – Manchester-Boston Regional Airport	\$90.00/5.00 each add'l person
Andover - Boston	\$95.00/5.00 each add'l person
Special Senior Citizen* rates	10% Discount
Special Multi – passenger rates	\$3.00 each add'l person local service

*Senior Citizen – 55 years of age or older

O. **Zoning**

The vehicle for hire business shall be conducted in the appropriate zoning district within the Town, which shall be confirmed by the Building Inspector in writing upon the licensee’s application for a vehicle for hire license.

P. **Operator License Displayed**

Every licensed vehicle for hire operator shall display his or her vehicle for hire operator’s license in a visible manner.

Q. **Rate Card and Vehicle For Hire License Displayed**

The rate card and the Vehicle for Hire License shall be secured and prominently displayed in the vehicle at all times.

R. **Overcharging**

No owner, operator or other person having charge of vehicles under these rules shall demand or receive a higher rate of fare than that established by the Select Board as set forth in these rules.

S. **Licensed Operator Required; Only Fare Paying Passengers Allowed**

No persons owning or in possession of a vehicle for hire licensed under these rules shall authorize, permit or allow such licensed vehicle to be operated by any person except a licensed vehicle for hire operator; nor shall any person drive or have charge of any such licensed vehicle except a person licensed under these rules to operate such vehicles. Except in cases of emergency, no person other than a fare-paying passenger shall ride with or accompany any operator in any vehicle licensed under these rules.

T. **No Extra Passengers Shall Be Picked Up Without Permission**

Operators having charge of licensed vehicles shall not pick up extra passengers without the permission of any passenger already engaged in the vehicle. No person owning or in

possession of a licensed vehicle under these rules shall accept any extra fare or fee from any passenger already engaged in the vehicle for the privilege of direct, nonstop routing to the destination of such passenger. Each vehicle for hire shall post visibly and securely a card in the vehicle stating, "No extra passengers shall be picked up without permission of the existing passenger".

U. **Obligation to Carry Passengers**

An operator shall not refuse, unless previously engaged, to carry any person lawfully entitled to be carried by a vehicle for hire. The operator shall not be obligated to carry any person who is loud or disorderly.

V. **Age of Operator**

No vehicle for hire shall be operated by a person under the age of twenty one years.

W. **Advertising/Markings**

No advertising sign or device, except the name of the vehicle for hire firm and telephone number, shall be allowed on or upon a vehicle licensed under the provisions of these rules. Taxicabs and Livery vehicles shall be identifiable by the word "Taxi", "Cab", "Taxicab", or "Livery Service", and the name of the firm on both sides of the vehicle with letters not less than four (4) inches high and two (2) inches wide.

X. **Lights**

There shall be no lights on vehicles for hire except those required by law, without authority of the Chief of Police or person designated by the Chief.

Y. **Conditions of Vehicles**

All vehicles shall be kept in good condition suitable for occupancy, and mechanically fit for the safety of passengers. The interior and exterior of the vehicle shall be clean and sanitary at all times. The Police Chief or person designated by the Chief shall inspect the vehicles (1) prior to being placed in operation, and (2) at any time on a random basis.

Z. **Log Required**

The owners shall keep a log, the form of which shall be approved by the Chief of Police. Included in this log for each trip shall be a record of the operator, the pick-up and delivery points, the pick-up and delivery times, the mileage at the start and end of each trip, and any accidents, violations, and/or times, the mileage at the start and end of each trip, and any accidents, violations, and/or charges incurred. The log should also note any lost articles left in the vehicle following each trip. Such a log shall be open to inspection by the Chief of Police or any officer authorized at all times. The logs shall be retained by the licensee for at least a year.

SECTION II. OPERATOR'S LICENSE

A. Authority of Police to Issuance

The Chief of Police, or person designated by the Chief, shall issue annual operator's licenses to suitable persons who are qualified as operators under the terms of these rules.

B. Approval of Application

All applications for operators' licenses shall require the approval of the Chief of Police, or person designated by the Chief, and no licenses shall be issued without the Chief's approval.

C. Application Shall be Accompanied by State Driver's License

Any applicant for an operator's license shall present for examination a valid driver's license as a motor vehicle operator, and the expiration date and number thereof shall be entered on the application.

D. License to Contain Description and Photograph of Licensee

The photograph of an operator shall be attached to the license in such a manner that it cannot be removed and another photograph substituted without detection. Each license shall contain a description of the licensee.

E. Fingerprints

All licensees, under the provisions of these rules, shall be fingerprinted.

F. Annual License/Application Fee; Photograph and License; Duplicate License

The annual fee for a vehicle for hire operators' license shall be \$25.00. This fee will include photographs of the operator and the license. A photograph will be attached the operator's license when issued and a photograph will be included in the operator's file at Police Headquarters. If a duplicate license is needed, there will be a fee of \$20.00. **The fee shall be paid at the time of application for said license and is not refundable.**

G. Term – Renewal

Operator's licenses shall be issued for a term of one year and shall be renewed annually.

H. Operator's License, Vehicle for Hire License and Copy of Chapter to be Carried by Operator

Every licensed operator shall have, in the vehicle for hire, the operator's license and a copy of these rules to be shown to a passenger on request, and shall have in an easily accessible place in the vehicle, the vehicle for hire license for such vehicle.

I. **When License to be Picked Up**

All licenses issued to vehicle for hire operators shall be picked-up within thirty days after filing the application.

J. **Surrender of License Upon Cessation of Driving**

Any licensee who shall cease to be the operator of a vehicle for hire shall at once surrender the vehicle for hire operator's license to the proper official of the Police Department.

K. **Notice; Change of Address; Employment; Employer**

When a licensed operator changes his or her address or place of employment or employer, the diver shall, within twenty-four hours of such change, notify the Chief of Police.

L. **Operator to be Suitably Dressed; License to be Displayed**

Every licensed operator having charge of a licensed vehicle for hire in a public place shall be suitably dressed. The operator shall display on his or her outer garment the license to operate the vehicle for hire. The license shall be a pattern approved by the licensing authority.

M. **OUI Convictions, Motor Vehicle Citations, and Sex Offender Status**

Any person convicted of operating a motor vehicle under the influence of alcohol or drugs within the last five (5) years, or any person who has received more than four (4) motor vehicle citations and/or accidents during the prior three (3) years, shall not be considered eligible for a license under these rules. Further, no person who is required to register as a sex offender in any jurisdiction may be an operator of a vehicle licensed under these rules.

N. **Communication with Passengers**

In order to communicate with passengers, the operators must be able to speak and understand English.

O. **Suspension or Revocation**

The Chief of Police shall have the right to suspend or revoke any vehicle for hire operator's license held by any person who violates any of the regulations set forth in these rules or bylaws of the Town or laws of the Commonwealth which would render an operator unsuitable.

SECTION III. MISCELLANEOUS

A. **Severability**

If any of these Rules and Regulations shall be deemed by a court of competent jurisdiction, then this action to be illegal, shall not effect the validity of the other Rules and Regulations contained therein.

ADOPTED BY THE ANDOVER SELECT BOARD ON DECEMBER 3, 1990

Amended – January 7, 1991 - Section I.G.

**Amended – February 11, 1991 - Section I.N.
Section II.F.**

**Amended – March 19, 2001 - Section I.N.
Section I.P.
Section I.Q.
Section I.T.**

**Amended – April 14, 2008 Section I.E.
Section I.M.
Section I.N.
Section II.F**

Amended – May 17, 2021

XI.4. VIDEO MACHINES

It is the policy guideline for the Select Board to license no more than four (4) video machines per establishment.

(12/19/88)

XI.5 REGULATIONS FOR OUTDOOR DINING LICENSES

These regulations are adopted pursuant to Article XI Section 9 of the General Bylaws of the Town of Andover:

1. These regulations are adopted pursuant to Article XI Section 9 of the General Bylaws of the Town of Andover:
 1. Applications for an outdoor dining or retail license shall be made to the Select Board by submission of an Application Form to the Town Clerk. The application will include the name, address and telephone number of the owner of the building and shall be signed by the owner of the building or owner's representative or attorney. The application shall be signed by the owner of the business. If the business is a restaurant the application shall be accompanied by a copy of the current Permit to Operate a Food Establishment issued by the Board of Health.
 2. The application shall also include seven copies of a plan containing the information required by Article XI Section 9.2 of the Bylaws, and shall also include a plan for outdoor lighting.
 3. Seven (7) copies along with an electronic version of the application and all supporting materials shall be submitted to the Town Clerk, who, upon determining that the application is complete, shall distribute the application to the Police Department Public Safety Officer, Fire Department, Board of Health, Treasurer, Planning Division and Building Inspector. If the location is within the General Business or Mixed Use Zoning Districts, the application shall also be given to the Design Review Board.
 4. Upon determination that the application is complete, the Town clerk shall establish a date for hearing on the application before the Select Board and shall notify the applicant and the departments to whom the application has been submitted for comments. The departments shall submit comments to the Select Board either in writing prior to the date of the hearing or in person at the hearing on the application.

5. If the license is approved by the Select Board the owner and operator of the business shall sign a License Agreement as required by the Bylaw and shall pay the License Fee before issuance of the License and before commencement of any activities under the License.
6. Applicants who hold an alcoholic beverages license shall provide a detailed alcohol control plan/strategy as part of their application packet. The alcohol control plan shall include what steps the manager shall take to ensure alcohol remains only on the licensed premises, including signage, staff instructions, monitoring of the outdoor dining area, etc. The applicant shall also submit the TIPS or alcohol server training certificates for the manager and all shift managers as part of the application packet.
7. The applicant shall provide evidence of insurance, as required by the Bylaw and the License Agreement. The applicant shall carry or require that there be carried Workers' Compensation insurance for all employees and those of its contractors and/or subcontractors engaged in work at the outdoor dining areas or retail facility, in accordance with the State Workers' Compensation Laws. The applicant shall furnish a certificate of insurance with associated endorsements to the Town evidencing coverage of all insurance required by the Town. In addition, the applicant shall carry Commercial General Liability Insurance and, if applicable, Liquor Liability Insurance with limits hereinafter set forth to cover the applicant and its contractors and subcontractors against claims due to accidents which may occur or result from operators under this Agreement. Such insurance shall cover the use of all equipment related to the provision of temporary and seasonal placement of outdoor dining areas or placement of retail furniture and fixtures services. The Commercial General Liability Policy and, if applicable, Liquor Liability Insurance shall insure against all claims and demands for bodily injury and property damage with respect to the outdoor dining or retail facilities and services, with limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The Town shall be named as an "additional insured" in all policies of such insurance. All insurance policies shall be primary and noncontributory and shall contain a waiver of subrogation in favor of the Town. The applicant (and their heirs, successors and assigns in interest) shall hold harmless, defend

and indemnify the Town of Andover and its employees and agents from any responsibility, liability and claims arising out of or related to the operations under this agreement. The applicant shall furnish a certificate of insurance with associated endorsements to the Town prior to commencing provisions of the facilities and services authorized under the applicant. Where such insurance is renewed or replaced the applicant shall furnish the Town with a certificate of insurance with associated endorsements evidencing the same.

8. Upon notification from the Department of Public Works that weather conditions or work to be performed on the property of the Town requires removal of the furniture, the applicant shall immediately remove all of its property associated with the outdoor dining or retail license from the public property.
9. The License is revocable at will by the Town for any reason whatsoever upon written notice to the Licensee from the Town. The License Agreement shall stipulate that in the event of such revocation, the Licensee shall have no recourse or claim against the Town for such revocation whether by way of monetary charges, a suit in equity or otherwise.
10. The Licensee shall comply with all applicable laws, rules, regulations, and conditions of other licenses and permits.
11. The License may be renewable through the Town Manager with the submission of a renewal application and a copy of the original approval. Upon review of the renewal application, should the Town Manager find the renewal license differs substantively from the initially approved license, the applicant shall apply for a new license with the Select Board.
12. In granting a license, the Select Board may impose terms and conditions including but not limited to locations, number of tables, chairs, racks and displays as it determines to be appropriate.
13. License fees shall be established by the Select Board.

Voted: January 26, 2009
Amended: July 11, 2011
Amended: March 14, 2022

XI.6 – TEMPORARY REGULATIONS FOR OUTDOOR DINING COMMUNITY EVENT (PUBLIC PROPERTY)

These temporary regulations are adopted pursuant to the Resolution of the Select Board dated May 18, 2020 for the Town Manager’s to-be-declared 120-day community event in response to the COVID-19 Coronavirus.

OUTDOOR DINING

1. The provisions of Policy XI.5 regulations for outdoor dining licenses (ODL) shall apply to outdoor dining on all Town owned property and not only to outdoor dining on Town sidewalks.
2. Notwithstanding the provisions of Policy XI.5 to the contrary, the Town Manager shall have all of the powers of the Select Board to issue outdoor dining licenses.
3. The insurance requirements set forth in Policy XI.5.7 shall apply to outdoor dining facilities on any Town owned property, and not only to outdoor dining facilities on Town owned sidewalks. The insurance limits applicable under Policy XI.5.7 shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
4. Policy XI.5.4 is deleted, but all other provisions of Policy XI.5 shall apply.
5. Applicants shall conduct activities under issued ODLs in accordance with all State and local social distancing requirements.

ALCOHOLIC BEVERAGES ON TOWN OWNED PROPERTY

1. If State legislation is enacted allowing the Select Board to grant a temporary approval to existing license holders for a change in the description of licensed premises for the purposes of outdoor alcohol service, an existing license holder may apply to temporarily serve alcohol on Town owned property under an ODL issued in connection with the community event declared by the Town Manager. Policy XI.2.L of the Select Board Policies, “Alcohol Beverage Licenses on Town Owned Property,” is hereby temporarily amended for this purpose, consistent with the State legislation. Applications for a change in the description of a licensed premises must comply with the following:
 - a. Policy XI.2.I “Section 12 Pouring License Provisions: Patios and Outdoor Areas,” except paragraph 7 of said Policy.
 - b. Applicants must present a security plan describing provisions for dealing with unruly patrons, traffic/parking considerations, and controlling access to alcohol by

- minors. Applicants must demonstrate that persons who will serve alcohol are at least 21 years of age and have certification in TIPS or comparable training.
- c. The application shall be reviewed and approved by the Town Clerk, the Andover Police Department, Andover Fire Rescue, the Department of Public Works, the Public Health Division, and Inspectional Services.
 - d. Applicants shall be responsible for cleaning the Town owned property after the community event and shall leave the property in the same condition as it was before the community event.
 - e. Applicants shall conduct activities according to all State and local social distancing requirements.
2. As an alternative to the immediately preceding section, applicants intending to serve alcohol on Town owned property under an ODL issued in connection with the community event must comply with Policy XI.2.F of the Select Board Policies, “Events with Alcohol in General-Special Licenses,” and Policy XI.2.N, “Special One Day Alcohol License Policy and Application For Outdoor Event On Town Property.”
 3. The Town Manager shall have all the powers of the Select Board under Policy XI.2.F and under Section XI.2.N.
 4. The following Amendments are hereby made to Policy XI.2.N:
 - a. Restaurants pursuing a special one-day alcohol license shall be deemed an “enterprise [acting] in support of a community event” under Policy XI.2.N.3.
 - b. For restaurants participating in this special event, Policy XI.2.N.8 shall not require that participating restaurants hire a police officer unless such measure is required by the Andover Chief of Police.
 - c. Pursuant to Policy XI.2.N.10(a), the Town Manager, acting in place of the Select Board, shall view as separate events each day that a participating restaurant serves alcohol to outdoor dining patrons on Town owned property under this community event. In accordance with M.G.L. Chapter 138 Section 14, participating restaurants will be limited to 30 special one-day liquor licenses in the calendar year.
 - d. Pursuant to Policy XI.2.N.10(b), the Select Board hereby waives all local application fees for restaurants seeking special one-day alcohol licenses under this community event.
 - e. Pursuant to Policy XI.2.N.11, the Town Manager, acting in place of the Select Board, will not decline to consider an application for a special one-day alcohol license solely because the application was submitted within 30 days of the event. However, the Select Board encourages participating restaurants to submit applications with the maximum notice to the Town Manager. This section does not obligate the Town Manager to issue any special one-day alcohol license.

DURATION

These Temporary Regulations shall only be effective for the duration of the 120-day community event as declared and coordinated by the Town Manager.

XI.7 – TEMPORARY REGULATIONS FOR OUTDOOR DINING COMMUNITY EVENT (PRIVATE PROPERTY)

These temporary regulations are adopted pursuant to the Resolution of the Select Board dated May 18, 2020 for the Town Manager’s to-be-declared 120-day community event in response to the COVID-19 Coronavirus and the Governor’s Emergency COVID-19 Order No. 35, dated June 1, 2020

OUTDOOR DINING ON PRIVATE PROPERTY:

1. The provisions of Policy XI.5 regulating outdoor dining shall apply to outdoor dining on private property except as modified or deleted herein.
2. Notwithstanding the provisions of Policy XI.5 to the contrary, the Town Manager shall have all of the powers of the Select Board to issue outdoor dining licenses (ODL) on private property.
3. Policies XI.5.4 and XI.5.8 are deleted.
4. In Policy XI.5.7, the applicable insurance limits are revised to \$1,000,000 per occurrence and \$2,000,000 in the aggregate. If the applicant’s outdoor dining plan does not involve crossing any Town property, including without limitation a Town sidewalk to access the outdoor dining area on private property, Policy XI.5.7 is inapplicable.
5. The applicant shall comply with all applicable regulations of the Architectural Access Board.
6. At least 50 percent of the perimeter of any covered dining space must at all times remain open and unobstructed by any form of siding or barriers.
7. Applicants shall conduct activities under issued ODLs in accordance with all State and local social distancing requirements.

ALCOHOL BEVERAGES ON PRIVATE PROPERTY

8. If an application is made to the Select Board for approval of an extension of the licensed premises for service of alcoholic beverages onto private property, the applicant must comply with the Alcoholic Beverages Control Commission’s “Guidelines For An Extension of Premises to Patio and Outdoor Areas,” approved July 28, 2015.
9. Further, any such the applicant must comply with Policy XI.2.I “Section 12 Pouring License Premises: Patio and Outdoor Areas,” except that if a parking lot is included in the area approved by the Select Board as an extension of the premises, paragraph 7 of said policy shall not apply to the approved area.
10. Applicants shall conduct activities according to all State and local social distancing requirements.

DURATION

Pursuant to the Governor’s Order, on November 1, 2020 or the date the Governor’s Order is rescinded, whichever is sooner, any approval and ODL issued under this Policy XI.7, and any

amended alcoholic beverage license issued by the Select Board as a result of the Governor's Order, shall be rescinded.

XI.8 TEMPORARY REGULATIONS FOR COVID-19 COMMUNITY EVENT: LICENSES FOR OUTDOOR DINING ON TOWN PROPERTY

These temporary regulations are adopted pursuant to the Resolutions of the Select Board dated May 18, 2020 and October 5, 2020 for the Town Manager's community event in response to the COVID-19 Coronavirus.

OUTDOOR DINING

6. The provisions of Policy XI.5 regulations for outdoor dining licenses (ODL) shall apply to outdoor dining on all Town owned property and not only to outdoor dining on Town sidewalks.
7. Notwithstanding the provisions of Policy XI.5 to the contrary, the Town Manager shall have all of the powers of the Select Board to issue outdoor dining licenses.
8. The insurance requirements set forth in Policy XI.5.7 shall apply to outdoor dining facilities on any Town owned property, and not only to outdoor dining facilities on Town owned sidewalks. The insurance limits applicable under Policy XI.5.7 shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
9. Policy XI.5.4 is deleted, but all other provisions of Policy XI.5 shall apply.
10. Applicants shall conduct activities under issued ODLs in accordance with all State and local social distancing requirements.

ALCOHOLIC BEVERAGES ON TOWN OWNED PROPERTY

5. An existing license holder may apply to temporarily serve alcohol on Town owned property under an ODL issued in connection with the community event declared by the Town Manager. Policy XI.2.L of the Select Board Policies, "Alcohol Beverage Licenses on Town Owned Property," is hereby temporarily amended for this purpose. Applications for a change in the description of a licensed premises must comply with the following:
 - a. Policy XI.2.I "Section 12 Pouring License Provisions: Patios and Outdoor Areas," except paragraph 7 of said Policy.
 - b. Applicants must present a security plan describing provisions for dealing with unruly patrons, traffic/parking considerations, and controlling access to alcohol by minors. Applicants must demonstrate that persons who will serve alcohol are at least 21 years of age and have certification in TIPS or comparable training.

- c. The application shall be reviewed and approved by the Town Clerk, the Andover Police Department, Andover Fire Rescue, the Department of Public Works, the Public Health Division, and Inspectional Services.
- d. Applicants shall be responsible for cleaning the Town owned property after the community event and shall leave the property in the same condition as it was before the community event.
- e. Applicants shall conduct activities according to all State and local social distancing requirements.
- f. Applicants shall comply in all respects with all requirements of the Massachusetts Alcohol Beverages Control Commission.

DURATION

These Temporary Regulations shall be effective until rescinded by the Select Board or until Governor Baker's Covid-19 Order No. 50 is rescinded or until 60 days after Governor Baker's March 10, 2020 declaration of emergency is ended, whichever occurs first.

XI.9 TEMPORARY REGULATIONS FOR COVID-19 COMMUNITY EVENT: LICENSES FOR OUTDOOR DINING ON PRIVATE PROPERTY

These temporary regulations are adopted pursuant to the Governor's Emergency COVID-19 Order No. 35, dated June 1, 2020, and Order No. 50.

OUTDOOR DINING ON PRIVATE PROPERTY:

1. The provisions of Policy XI.5 regulating outdoor dining shall apply to outdoor dining on private property except as modified or deleted herein.
2. Notwithstanding the provisions of Policy XI.5 to the contrary, the Town Manager shall have all of the powers of the Select Board to issue outdoor dining licenses (ODL) on private property.
3. Policies XI.5.4 and XI.5.8 are deleted.
4. In Policy XI.5.7, the applicable insurance limits are revised to \$1,000,000 per occurrence and \$2,000,000 in the aggregate. If the applicant's outdoor dining plan does not involve crossing any Town property, including without limitation a Town sidewalk to access the outdoor dining area on private property, Policy XI.5.7 is inapplicable.
5. The applicant shall comply with all applicable regulations of the Architectural Access Board.
6. At least 50 percent of the perimeter of any covered dining space must at all times remain open and unobstructed by any form of siding or barriers.
7. Applicants shall conduct activities under issued ODLs in accordance with all State and local social distancing requirements.

ALCOHOL BEVERAGES ON PRIVATE PROPERTY

8. If an application is made to the Select Board for approval of an extension of the licensed premises for service of alcoholic beverages onto private property, the applicant must comply with the Alcoholic Beverages Control Commission's "Guidelines For An Extension of Premises to Patio and Outdoor Areas," approved July 28, 2015, and all other requirements of the Alcoholic Beverages Control Commission.
9. Further, any such the applicant must comply with Policy XI.2.I "Section 12 Pouring License Premises: Patio and Outdoor Areas," except that if a parking lot is included in the area approved by the Select Board as an extension of the premises, paragraph 7 of said policy shall not apply to the approved area.
10. Applicants shall conduct activities according to all State and local social distancing requirements.

DURATION

These Temporary Regulations shall be effective until rescinded by the Select Board or until Governor Baker's Covid-19 Order No. 50 is rescinded or until 60 days after Governor Baker's March 10, 2020 declaration of emergency is ended, whichever occurs first.

XII. Miscellaneous Policies

XII.1. Courtesy

In an ongoing effort to improve the delivery of service to the Townspeople of Andover, the Select Board supports the posting of the following letter and a suggestion box at the reception desk of the Town Offices.

The government of the Town of Andover and its facilities exist to provide services to the residents. In addition, these facilities serve as a workplace for the employees.

With this in mind, the conduct of our employees, the atmosphere in the offices and the quality of the services performed are a legitimate concern to all of us.

Any suggestion you may have which would improve the service or improve the atmosphere of the offices will be carefully considered and gratefully appreciated.

Your treatment in the Town Offices should be courteous, prompt and efficient.

Your comments will be appreciated.

1/1/87

XII.2. Customer Service Policy

It is the goal of the Town of Andover staff, elected officials and volunteers to provide customers with responsive, consistent and effective public services. Quality service will be delivered with respect for the needs and diversity of all residents in the community. The term “customer” is defined broadly to include residents, taxpayers, staff, elected officials, volunteers and the general public.

To achieve this level of quality customer service, the Town will strive to:

- Respect the diversity in our community and provide services to all customers in a fair and equitable manner.
- Deliver services and programs in a manner that protects the environment and the needs of future generations.
- Support the policies established by our local elected and appointed officials.
- Promote excellence within our organization.
- Identify creative and innovative approaches to serve customers.

- Respect the knowledge and perspective of customers and respond to their ideas and concerns.

If you have any positive comments, questions or concerns about our services, programs, policies or procedures or the manner in which a Town staff member treated you, please contact the Department/Division that delivers the service or the Town Manager's Office (978-623-8225 or via e-mail at manager@andoverma.gov). The Town Manager's Office will refer your inquiry to the appropriate Department/Division or address your request personally. Your inquiry will be handled in a confidential and timely manner.

6/2/14

XII.3. Code of Conduct Policy

The Town of Andover staff, elected officials and volunteers strive to provide a safe and positive experience for those visiting and working in all Town facilities as outlined in this Code of Conduct. In addition, the Town supports a workplace that is conducive to personal safety and security and free from intimidation, threats or acts of violence. The Town does not tolerate workplace violence including threats of violence by anyone who conducts business in or work for the Town.

The Town will not tolerate harassing conducts that affects conditions which interfere unreasonably with an individual's performance or creates an intimidating, bullying, hostile or offensive environment for visitors or staff.

The Town expects compliance of this Code of Conduct. Anyone who does not comply may be asked to leave the premises.

- Show respect for yourself, others and building facilities including public and personal property.
- Avoid causing disturbances or disruptions.
- Use common courtesy when interacting with others by following the "Golden Rule".
- Do not engage in any lewd or offensive behavior.
- Any form of violence is prohibited.
- Using tobacco products, drinking alcohol or being under the influence of illegal substances is prohibited in Town facilities.

Any violations should be brought to the attention of the Department/Division Head. Repeat violations will be brought to the attention of the Andover Police Department and could result in the suspension of facility privileges.

XII.4. Use of Town Seal

It is the general policy of the Select Board to prohibit all non-official uses of the Town Seal.

All official use of the Town Seal shall require a consensus vote of the Board.

XII.5. Street Lighting

In the evaluation of the need to Street Lighting in a given location, the Select Board will consider special requests only after the request has been reviewed by pertinent departments, especially the Police Department for a determination of public safety, as well as the Electric Company.

These efforts shall be coordinated by the Town Manager and recommendations and opinions forwarded to the Select Board prior to its consideration.

1/12/87

XII.6. Skate Boards

In the interest of public safety, the Select Board, until further notice, prohibits the use of Skate Boards in the following areas:

- 1) On sidewalks and Main Street in the center of Town from Elm Square to Locke Street.
- 2) Around and on Town property and Town buildings, especially the Old Town House, the Town Offices and the Memorial Hall Library.

1/10/89

XII.7. Silly String

The sale or use of silly string at parades and Clown Town in the Town of Andover is prohibited.

5/6/96

XII.8. Sidewalk Displays

The Select Board shall consider the granting of exceptions to the Town ordinance that “nothing is to be displayed on sidewalks by merchants”. Requests shall be considered on a case by case basis.

Conditions of approval of a requested exception may include:

- 1) Restricting the display to a specified area.
- 2) Subject to merchants naming the Town of Andover as an additional insured on their liability insurance policy.
- 3) Other conditions as may seem appropriate.

6/13/83

XII.9. John F. Kennedy Day

The Select Board supports efforts to establish a John F. Kennedy holiday on Election Day every other year.

8/15/88

XII.10. Payment in Lieu of Taxes (PILOT) Policy

The owners of exempt property in Andover having a total assessed value of \$4,000,000 or more, which is used primarily for private educational purposes, are encouraged to make an annual voluntary contribution to the Town of Andover, of a sum equal to twenty-five percent (25%) of the amount that would normally be paid in property taxes if the property were not exempt from taxation, for the purpose of reimbursing the Town of Andover and the Andover taxpayers for the costs of providing public services to the owners, inhabitants, and users of said exempt property. Furthermore, up to twenty-five percent (25%) of said annual voluntary contribution may be credited back to the exempt property owner, contingent on the owners providing verifiable documentation of any quantifiable services provided directly to the Town of Andover and/or the taxpaying residents of Andover. Such annual voluntary contribution, including any community service credit, shall be established, executed and implemented through a formal agreement between the Town of Andover and the owners of the exempt property, for a term of not more than five years.

12/16/13

XII.11. Naming Facilities

Naming a Town facility is an important matter that deserves thoughtful attention. Personal prejudice or favoritism, political pressure, or temporary popularity should not be an influence in choosing a name for a building, a portion of a building, or any portion of public grounds. Whenever possible, the wishes of the community should be considered in naming town facilities.

The Select Board has the authority to approve the naming, renaming, and removal of names of buildings, structures, and facilities located on property under the care, custody, and control of the Select Board. The Select Board also has the authority to name subsections of existing structures or facilities, such as individual rooms or gathering spaces.

Names and/or wording associated with Town facilities shall be consistent with Town Bylaws and Select Board policies and promote values aligned with the Town of Andover's Mission and Values Statement. To the extent possible, names and/or wording should be designed not to restrict the use of a space or inhibit changing the function of the space should that become necessary in the future.

When the opportunity to name or dedicate a new town building or related property, structure or facility is forthcoming, an orderly procedure will be communicated at the next available Select Board meeting. The Board's agendas should clearly reflect the intent to consider, review, and vote on naming opportunities.

Submission of a name for a Town space may be made by any resident, by a member of the Select Board, or by the Town Manager, in writing, and should be made to the Chair of the Select Board. The Select Board must also be consulted prior to the start of any capital or fundraising campaign that will include the possibility of naming opportunities.

The written request should specify the intent of the requestor and the reasons why this particular name would fit the facility. It should offer appropriate background information on the person, organization, or geographic area after which the facility will be named. An offer of a financial contribution that will benefit the Town may accompany the naming request, but the Select Board is not obligated to accept or reject a name based upon financial considerations. The Select Board may acknowledge generous donors by designating appropriate spaces within Town facilities consistent with the level of financial commitment.

Following the submission of a naming request, the Chair of the Select Board will specify a consideration period that allows for public comment, following which the Board will deliberate and vote on the name.

1/14/19

XIII. FINANCE/INVESTMENT POLICIES

XIII.1 Investment Policy Statement

Appendices:

Appendix A. Chapter 44 Municipal Finance

Appendix B. Chapter 203C Prudential Investment

Appendix C. M.G.L. Chapter 180A Management of Institutional Funds

Appendix D. Commissioners of Trust Funds

Appendix E. Boards of Cemetery Commissioners

Appendix F. Purposes for Which Towns May Appropriate Money

Appendix G. Miscellaneous Provisions

XIII.1 Investment Policy Statement

INTRODUCTION

The principal purpose of this Statement is to provide long-term direction for the investments of the Town of Andover. A secondary purpose is to describe for the Office of Treasurer, the public, and staff the underlying logic and philosophy supporting this Statement.

Setting investment policy is the most critical phase of the entire investment process. The effects of a good or bad investment policy can be more important than the effects of good or poor investment management. To be successful, an Investment Policy needs to be appropriate for its institutional setting and intended purpose. This policy needs to match the needs of the Operating Funds, Regular and/or General Funds, and Trust Funds future anticipated requests or periodic disbursements to the financial assets most likely to meet those cash flow needs. The best way to minimize investment risk is to match, as closely as possible, the timing of future liabilities with the timing of future cash flows from the portfolio assets.

The policy statement is also designed to withstand "trustee risk" — the possibility that, at some stress point (most frequently an extreme decline in the stock or bond markets), those who oversee the funds may react in a manner detrimental to the long-term health of the Trust Funds.

PRINCIPLES

Outlined below are principles, which shall serve as a guide in establishing this Investment Policy Statement.

The Town Treasurer/Custodian of Funds shall review periodically the Town's policy, investment position, asset allocation, yield, and long-term direction. This Investment Policy shall be reviewed annually, delivered to each board as necessary, the Finance Director, Town Accountant and submitted to the Town's external auditors.

All investments shall be made in accordance with Chapter 44, Sections 54 and 55 of the Massachusetts General Laws (See appendix A), and/or M.G.L. Chapter 203C Sections 1 – 11 (See Appendix B), and/or M.G.L. Chapter 180A (See Appendix C), and/or M.G.L. Chapter 41 Section 46 (See Appendix D), and/or Chapter 114 Section 25 (See Appendix E), and/or Chapter 40 Section 5B, 5D (See Appendix F), and/or Chapter 44 Section 53F1/2 (See Appendix G).

The guiding tenet, in order of priority, for the investing of all Town funds is:

- Safety
- Liquidity
- Yield

The Town of Andover is both a short-term and long-term investor.

SHORT-TERM INVESTING/GENERAL FUND

Massachusetts General Laws, Chapter 44, section 55B requires the Town Treasurer to invest all public funds except those required to be kept un-invested for purposes of immediate distribution.

Modern banking systems enable the public treasurer to maintain even these funds in interest bearing form until the date a disbursement order clears through the banking system.

The state law further requires that invested funds are to be placed at the highest possible rate of interest reasonably available, taking account of safety, liquidity and yield. Therefore, these guidelines are intended to further the objective of securing the highest return that is consistent with safety of principal while meeting the daily cash requirements for the operation of the entity's business.

Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital through the mitigation of credit risk and interest rate risk. These risks shall be mitigated by the diversification and prudent selection of investment instruments, and choice of depository. Credit risk is the risk of loss due to the failure of the security issuer or backer. Interest rate risk is the risk that the market value of the security will fall due to changes in general interest rates.

Liquidity is the next most important objective. The overall investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. Since all possible cash demands cannot be anticipated, the treasurer shall carry out investment activities in a manner that provides for meeting unusual cash demands without the liquidation of investments that could result in forfeiture of accrued interest earnings, and loss of principal in some cases.

Yield is the third, and last, objective. Investments shall be undertaken so as to achieve a fair market average rate of return, taking into account safety and liquidity constraints as well as all legal requirements.

INVESTMENT INSTRUMENTS

Public investments in Massachusetts are not protected through provisions in State law. Therefore, they are largely uncollateralized. Many banking institutions are willing to put up collateral, albeit at a cost to the entity of a lower interest rate. The Treasurer negotiates for the highest rates possible, consistent with safety principles.

The Treasurer may invest in the following instruments:

Massachusetts State pooled fund: Unlimited amounts_(Pool is liquid)

The Massachusetts Municipal Depository Trust (MMDT), an investment pool authorized by M.G.L. Ch. 29, Section 38A for state, local, county and other independent governmental authorities, is under the auspices of the State Treasurer and currently managed by Fidelity Investments. It invests in Bankers Acceptances, Commercial Paper of high quality, Bank Certificates of Deposit, Repurchase agreements (Repos), and U. S. Treasury Obligations. It has Federal Deposit Insurance Corporation (F.D.I.C.) pass-through insurance on the C.D.'s and takes delivery on the Repos and Treasuries. Government Accounting Standards Board Regulations (GASB Statements 3 and 40), does not consider this investment to be an uncollateralized product.

U. S. Treasuries that will be held to maturity: (Up to one year maturity from date of purchase)

Unlimited amounts

U.S. Agency obligations that will be held to maturity. (Up to one year maturity from date of purchase)

Unlimited amounts

Bank accounts or Certificates of Deposit, hitherto termed C.D.s: (Up to one year maturity) which are fully collateralized through a third party agreement: Unlimited Amounts

Bank accounts and C.D.s (Up to one year maturity) insured by F.D.I.C. up to maximum limit: All bank accounts and C.D.s in one institution are considered in the aggregate to receive the F.D.I.C. insurance coverage. Some banking institutions carry additional insurance, Depository Insurance Fund of Massachusetts (D.I.F.M). If protected by such additional coverage, bank accounts and C.D.s in these institutions may exceed the F.D.I.C. limit.

Unsecured bank deposits of any kind such as other checking, savings, money market, or Certificates of Deposit accounts at Banks that do not fit the above categories. The size of the Town's investment portfolio precludes the use of only FDIC insured deposit products. Efforts will be made to maximize all forms of insurance protection. Investments will be limited to no more than 5% of any one institution's assets. No more than 10% of the Town's cash may be held in any one institution unless the institution rates in the highest category on the quarterly Veribanc, Inc., an independent bank rating agency, report. The quarterly Veribanc, Inc., report will be reviewed by Treasurer/Collector or his designee and the Finance Director. Deposits will be diversified to the extent possible to protect the investment and to enable operational efficiency. C.D.s will be purchased for no more than twelve months and will be reviewed frequently to ensure they are in line with current market conditions. [Paragraph amended 6-16-2014]

Money Market Mutual Funds that are registered with the Securities and Exchange Commission, have received the highest possible rating from at least one nationally recognized statistical rating organization and as otherwise referenced in the Massachusetts General Law Chapter 44 Section 55.

RISK TOLERANCE

Risk tolerance for investment of Town's funds is defined and will be managed as follows

Credit Risk

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations.

The Town will manage credit risk in several ways. There will be no limit to the amount of United States Treasury and Agency obligations held as both of these types of investments carry an AAA rating.

All other investments the Town may purchase must be investment grade securities, a high concentration of which must be rated A and above.

The Town may invest in the Massachusetts Municipal Depository Trust (MMDT) without limit as to amount.

The Town may place funds in banking institutions as stated in the Section C of this policy.

Custodial Risk

The custodial credit risk for deposits is the risk that, in the event of the failure of a depository financial institution, the Town will not be able to recover deposits or will not be able to recover collateral securities that are in the possession of an outside party. The custodial credit risk for investments is the risk that, in the event of the failure of the counterparty to a transaction, the

Town will not be able to recover the value of the investment or collateral securities that are in the possession of an outside party.

The Town will review the firm's financial statements and the background of the sales representative. The intent of this qualification is to limit the Town's exposure to only those institutions with a proven financial strength, capital adequacy of the firm, and overall affirmative reputation in the municipal industry. Furthermore, all securities not held directly by the Town, will be held in the Town's name and tax identification number by a third party custodian approved by the Treasurer and evidenced by safekeeping receipts showing individual CUSIP numbers for each security.

Concentration of Credit Risk

Concentration of credit risk is the risk of loss attributed to the magnitude of a government's investment in a single issuer.

The Town will minimize Concentration of Credit Risk by diversifying the investment portfolio so that the impact of potential losses from any one type of security or issuer will be minimized.

Interest Rate Risk

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment.

The Town will manage interest rate risk by managing duration in the account.

Foreign Currency Risk

Foreign currency risk is the risk that changes in the exchange rates will adversely affect the fair value of an investment or a deposit.

The Town will not invest in any instrument exposed to foreign currency risk.

BANKING AND FINANCIAL STABILITY

Financial institutions should be selected first and foremost with regard to safety. The Town Treasurer shall subscribe to the quarterly reports of one or more of the recognized bank rating services, such as Veribanc, Inc. or Sheshunoff. Brokers and financial advisors should be recognized, reputable dealers that are members of FINRA and possess demonstrated knowledge and experience with Massachusetts municipal investing.

Veribanc, Inc. classifies banks into the following color categories based upon their financial stability:

GREEN: The highest rating awarded to an institution, the equity of which exceeds 5% of its assets and it was profitable during the most recent reporting quarter.

YELLOW: The institution's equity is between 3% - 5% of its assets or it incurred a net loss during the most recent reporting quarter. Both of these conditions may apply. If there was a net loss, the loss was not sufficient to erode a significant portion of the institution's equity. A yellow classification merits the investor's attention.

RED: The institution's equity is less than 3% of its assets or it incurred a significant net loss during the most recent reporting quarter (or both). A red classification deserves close scrutiny.

The Treasurer may invest in such banks that earn a green rating in a particular quarter. If a rating is yellow, the Treasurer should contact the appropriate banking institution and request in writing an explanation of the change in rating and the expected time table for it to be upgraded back to green. If for a second quarter such rating has not been corrected, the Treasurer should consider removing all funds that are not collateralized, or carries some form of depositor's insurance.

If a rating moves to red, all funds should be immediately collateralized or covered by some form of depositors insurance or be removed from the banking institution.

The Treasurer shall require any brokerage houses and broker/dealers, wishing to do business with the Town, to supply the following information to the Treasurer:

- Audited financial statements

- If acting as an Investment Advisor, a current Form ADV, upon request

- Proof of National Association of Security Dealers certification

- A statement that the dealer has read the municipality's investment policy and will comply with it

- Proof of credit worthiness (minimum standards: at least five years in operation and a minimum capital of \$10 million)

RECONCILIATION AND REPORTING

The Treasurer shall reconcile the Cash Account at the end of each month to both Bank Statements and General Ledger. All variances must be identified and resolved with either the bank or the Town Accountant. All reconciliations must be provided to the independent auditor for review on an annual basis.

The Massachusetts Department of Revenue requires that the Treasurer report on a quarterly basis, the Town's cash positions by instrument type, location by institution and current yield. The reports of the first three (3) quarters must be kept on file in the Office of the Town Treasurer and made available upon request. The final quarterly report, which includes balances at the fiscal year end, must be approved by both the Town Treasurer and Auditor and submitted to the Department of Revenue prior to Free Cash Certification.

On an annual basis, a report containing the following information will be prepared by the Treasurer and distributed to the Auditor. The report will include the following information, as a minimum requirement:

- A listing of the individual accounts and individual securities held at the end of the reporting period.

- A listing of the short-term investment portfolio by security type and maturity to ensure compliance with the diversification and maturity guidelines established in the "Diversification" section of this Investment Policy.

- A summary of the income earned by account shall be reported.

- The Town Treasurer shall include in the report a brief statement of general market and economic conditions and other factors that may affect the Town's cash position.

- The report should demonstrate the degree of compliance with the tenets set forth in the Investment Policy

LONG-TERM INVESTING/TRUSTS & RESERVES

The standard of prudence to be used by the Treasurer shall be the "Prudent Person" standard and shall be applied in the context of managing an overall portfolio. The Treasurer, acting in accordance with written procedures, and this investment policy, and exercising due diligence, shall be relieved of

personal responsibility for an individual security's credit risk or market price changes, provided the purchases and sale of securities is carried out in accordance with the terms of this policy.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in management of their own affairs; not for speculation but for investment considering the probable safety of their capital as well as the probable income to be derived.

The Town purchases long-term assets, such as equities, which tend to have high returns over many years but whose price volatility precludes their use by those with shorter time horizons. By keeping our long-term focus in mind at all times, we hope to weather the periodic bad times.

We expect this long term view to provide us with better results than will be earned by those who pick short term investments or who abandon ship during turbulent times. We also expect that equities will serve as a hedge against eroding trust fund values due to long term inflationary trends.

We expect the stock market to provide greater total returns than the bond market does. We say this in a long term sense, knowing that both economies and markets suffer periodic (but normally brief) declines, and knowing that there have been periods when cash and bonds outperform stocks.

We expect the relationship between the economy, the stock market, and inflation that has been in existence for the past 40 years to continue. We expect the American economy to show modest real growth over full business cycles, after allowance for occasional recessions. We expect stock prices to grow slightly faster than inflation, although the naturally volatile nature of the stock market will make such growth invisible except when observed over longer periods of time. We expect cash dividends from stocks also to grow slightly faster than inflation, and to fluctuate much less than stock prices do.

We expect continued inflation. Its timing and severity we cannot predict, but we believe it will be of sufficient magnitude that to ignore it would threaten our ability to meet our long-term objectives.

Our definition of risk is not always the common one. Most investors define investment risk in terms of the volatility of short-term total returns. This definition is appropriate for funds with a very short-term time horizon, but inappropriate for perpetual funds such as Trust Funds and/or Stabilization Funds, and Scholarship Funds. Our managed funds bear three potential kinds of risk. One comes from any mismatch between the natural cash flows out of the Trusts (the amount requisitioned from the Trusts) and the cash flows coming in (from dividends and interest). A second source of risk is the possibility that the assets in the funds do not perform the way the investment manager(s) or we expect them to. The third form of risk is that of reacting inappropriately at a volatile period, most likely after a severe market decline. We hope to minimize these risks to as great a degree as is possible without harming Town Funds long-term objectives. Given our intention of not spending principal, we define its risk in terms of threats to its income stream. Market value fluctuations are of secondary importance unless individual assets have permanently impaired values and must be liquidated to preserve remaining value.

STRATEGY

The contracted Investment Manager(s)/Consultants will utilize the following investment guidelines in terms of asset allocation. This policy is subject to review and amendment at any time.

The Investment Manager(s) may use separately managed accounts, co-mingled trusts, index funds/ETFs/IShares and mutual funds, as appropriate, with the approval of the Town Treasurer. Rating agency inquiries should be utilized on a regular basis. 0-10% cash and cash equivalents. Cash will be maintained to provide periodic cash distributions. Cash will not normally be held as a strategic investment asset, although the Investment Manager may seek to allow cash to build to the maximum level in times of market uncertainty.

50-75% Fixed Income. To ensure appropriate diversification and minimize sector risk, investing primarily in high-quality taxable bonds, notes, and other credits. The goal is to provide returns competitive with, and price volatility similar to, Bond Index Funds.

15-30% Equities

5 -10% International Equity

Adequate diversification and risk controls must be maintained within each sub-category. An appropriate benchmark for the overall asset class of equities, as well as each sub-strategy, will be determined and agreed upon between the Town Treasurer and the Investment Manager(s).

PERFORMANCE MEASUREMENT & EVALUATION

The Funds performance will be measured by comparison with their stated objectives in comparison to their respective benchmarks.

To monitor the intermediate term performance of the Funds, the Treasurer will compare the investment manager's results to a blended benchmark, in aggregate and in specific allocation to be determined in conjunction with the Investment Manager(s)/Consultants.

Rebalancing of the portfolios should happen at least semi- annually, if appropriate, and approved by the Treasurer.

It is expected that the performance returns of the Trust Funds, and any sub-strategy, will outperform their respective benchmarks, net of fees, on a long-term (business cycle) basis.

SUPERVISION

(1) The Treasurer will meet with the investment manager(s) as frequently as semi-annually to monitor the performance of the funds and the investment manager(s) compliance with these guidelines. The Treasurer will receive and review portfolio management reports quarterly.

(2) The Treasurer will review this Investment Policy Statement at least once a year to ensure that it remains appropriate and complete. (3) The Treasurer has the option to put the management of funds out for bid periodically, and shall consider such option not less frequently than every five years, through a request for information, request for proposal, or similar process as required by law or Town policy. The Town Treasurer, in exercising said option, shall issue either a Request for Information and/or Request for Proposal to include one or all of: an Investment Consultant, an Investment Manager, and an Institutional Custodian.

Adopted by the Town Treasurer

Signature: _____ Date: _____

David J. Reilly
Town Treasurer

Adopted by Select Board on June 7, 2010.

**APPENDIX A CHAPTER 44.
MUNICIPAL FINANCE**

MISCELLANEOUS PROVISIONS

Chapter 44: Section 54. Investment of trust funds

Section 54. Trust funds, including cemetery perpetual care funds, unless otherwise provided or directed by the donor thereof, shall be placed at interest in savings banks, trust companies incorporated under the laws of the commonwealth, banking companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation, or national banks, or invested by cities or towns in participation units in a combined investment fund under section thirty-eight A of chapter twenty-nine, or in paid-up shares and accounts of and in co-operative banks, or in shares of savings and loan associations or in shares or savings deposits of federal savings and loan associations doing business in the commonwealth to an amount not exceeding one hundred thousand dollars, or in bonds or notes which are legal investments for savings banks. Cities and towns having such funds in the custody of the treasurer in an aggregate amount in excess of two hundred and fifty thousand dollars may also invest such funds in securities, other than mortgages or collateral loans, which are legal for the investment of funds of savings banks under the laws of the commonwealth; provided, that not more than fifteen per cent of any such trust funds shall be invested in bank stocks and insurance company stocks, nor shall more than one and one-half per cent of such funds be invested in the stock of any one bank or insurance company. This section shall not apply to the city of Boston.

Chapter 44: Section 55. Public funds on deposit; limitations; investments

Section 55. A city, town, or district or regional school district shall not at any one time have on deposit in a bank or trust company or banking company an amount exceeding sixty per cent of the capital and surplus of such bank or trust company or banking company, unless satisfactory security is given to it by such bank or trust company or banking company for such excess. The treasurer of any city, town, district or regional school district shall not deposit funds for which he is accountable in any bank, trust company or banking company with which such treasurer is associated as an officer or employee or has been associated as an officer or employee at any time during the three years immediately preceding the date of any such deposit. For the purpose of paying the principal or interest due on any bond, note or other obligation of the city of Boston, which is payable or requested to be paid in the city of New York, the city of Boston may keep on deposit in any national bank or trust company in the city of New York a sum not exceeding in the aggregate twenty-five thousand dollars; provided, that for a period of two weeks prior to the date of any such payment or payments, said amount may be increased by a sum or sums sufficient to cover the same. A treasurer of a city, town, district or regional school district may invest such portion of revenue cash as he shall deem not required to pay expenses until such cash is available and all or any part of the proceeds from the issue of bonds or notes, prior to their application to the payment of liabilities incurred for the purposes for which the bonds or notes were authorized, in term deposits or certificates of deposit, in trust companies, national banks, savings banks, banking companies or cooperative banks, or in obligations issued or unconditionally guaranteed by the United States government or any agency thereof and having a maturity from date of purchase of one year or less, or in United States government securities or securities of United States government agencies purchased under an agreement with a trust company, national bank or banking company to repurchase at not less than the original purchase price of said securities on a fixed date, not to exceed ninety days or in shares of beneficial

interest issued by money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended, operated in accordance with Section 270.2a-7 of Title 17 of the Code of Federal Regulations, that have received the highest possible rating from at least one nationally recognized statistical rating organization and the purchase price of shares of beneficial interest purchased pursuant to this section shall not include any commission that these companies may charge, or in participation units in a combined investment fund under section thirty-eight A of chapter twenty-nine; provided, however, that no temporary notes in anticipation of revenue shall be issued under section four as long as any revenue cash, exclusive of revenue sharing or other revenue cash the use of which is restricted to purposes other than current maintenance expenses, remain so invested.

APPENDIX B.

CHAPTER 203C. PRUDENT INVESTMENT

Chapter 203C: Section 1. Citation

Section 1. This chapter shall be known as and may be cited as the Massachusetts Prudent Investor Act.

Chapter 203C: Section 2. Trustees managing trust assets; duty to comply with prudent investor rule

Section 2. (a) Except as provided in subsection (b), a trustee who invests and manages trust assets shall owe a duty to the beneficiaries of a trust to comply with the prudent investor rule set forth in this chapter.

(b) The prudent investor rule may be expanded, restricted, eliminated or otherwise altered by the provisions of a trust. A trustee shall not be liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

Chapter 203C: Section 3. Investment and management decisions

Section 3. (a) A trustee shall invest and manage trust assets as a prudent investor would, considering the purposes, terms, and other circumstances of the trust, including those set forth in subsection (c). In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(b) A trustee's investment and management decisions respecting individual assets shall be considered in the context of the trust portfolio as a part of an overall investment strategy reasonably suited to the trust.

(c) Among circumstances that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries:

- (1) general economic conditions;
- (2) the possible effect of inflation or deflation;
- (3) the expected tax consequences of investment decisions or strategies;
- (4) the role that each investment or course of action plays within the overall trust portfolio;
- (5) the expected total return from income and the appreciation of capital;
- (6) other resources of the beneficiaries;
- (7) needs for liquidity, regularity of income, and preservation or appreciation of capital; and
- (8) an asset's special relationship or special value, if any, to the purposes of the trust or to one of the beneficiaries.

(d) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) A trustee may invest in any kind of property or type of investment consistent with the standards of this chapter.

(f) A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has such special skills or expertise, shall have a duty to use such special skills or expertise.

Chapter 203C: Section 4. Diversification

Section 4. A trustee shall reasonably diversify the investments of the trust unless, under the circumstances, it is prudent not to do so.

Chapter 203C: Section 5. Review of assets

Section 5. Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, and the other circumstances of the trust, and with the requirements of this chapter.

Chapter 203C: Section 6. Beneficiaries' interests

Section 6. A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

Chapter 203C: Section 7. Two or more beneficiaries

Section 7. If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

Chapter 203C: Section 8. Costs incurred

Section 8. In investing and managing trust assets, a trustee shall incur only costs that are appropriate and reasonable in relation to the assets, the purpose of the trust, and the skills of the trustee.

Chapter 203C: Section 9. Determination of compliance with prudent investor rule

Section 9. Compliance with the prudent investor rule shall be determined in light of the facts and circumstances existing at the time of a trustee's decision or action.

Chapter 203C: Section 10. Delegation of investment and management functions

Section 10. (a) A trustee may delegate investment and management functions if it is prudent to do so. A trustee shall exercise reasonable care, skill and caution in:

- (1) selecting an agent;
- (2) establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and
- (3) periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

(b) In performing a delegated function, an agent shall owe a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) A trustee who complies with the requirements of subsection (a) shall not be liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(d) By accepting the delegation of trust functions from the trustee of a trust that is subject to the laws of the commonwealth, an agent submits to the jurisdiction of the courts of the commonwealth.

Chapter 203C: Section 11. Trust provisions; terms

Section 11. The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorize any investment or strategy permitted under this chapter and shall not be interpreted to be a restriction, elimination, or other alteration of the prudent investor rule for purposes of subsection (b) of section 2: “investments permissible by law for investment of trust funds”, “legal investments”, “authorized investments”, “using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital”, “prudent man rule”, “prudent trustee rule”, “prudent person rule”, and “prudent investor rule”.

APPENDIX C

M.G.L. CHAPTER 180A. MANAGEMENT OF INSTITUTIONAL FUNDS

Chapter 180A: Section 1. Definitions

Section 1. The following words as used in this chapter shall have the following meanings, unless a different meaning is clearly apparent from the language or context:—

- (1) “Institution”, an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes;
- (2) “Institutional fund”, a fund held by an institution for its exclusive use, benefit, or purposes, but does not include (i) a fund held for an institution by a trustee that is not an institution or (ii) a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund;
- (3) “Endowment fund”, an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument;
- (4) “Governing board”, the body responsible for the management of an institution or of an institutional fund;
- (5) “Historic dollar value”, the aggregate fair value in dollars of (i) an endowment fund at the time it became an endowment fund, (ii) each subsequent donation to the fund at the time it is made, and (iii) each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive.
- (6) “Gift instrument”, a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document, including the terms of any institutional solicitations from which an institutional fund resulted, under which property is transferred to or held by an institution as an institutional fund.

Chapter 180A: Section 2. Appropriations for expenditures from endowment funds authorized; presumption of imprudence

Section 2. The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of the endowment fund over the historic dollar value of the fund as is prudent under the standard established by section eight; provided, however, the appropriation of net appreciation for expenditure in any year in an amount greater than seven per cent of the fair market value of the institution's endowment funds, calculated on the basis of market values determined at least quarterly and averaged over a period of three or more years, shall create a rebuttable presumption of imprudence on the part of the governing board. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

Chapter 180A: Section 3. Restrictions in gift instruments upon expenditure of net appreciation

Section 3. Section two does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income", "interest", "dividends", or "rents, issues or profits", or "to preserve the principal intact", or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this section.

Chapter 180A: Section 4. Accumulation of annual net income; reserve

Section 4. The governing board may accumulate so much of the annual net income of an institutional fund as is prudent under the standard established by section eight, and may hold any or all of such accumulated income in an income reserve for subsequent expenditure for the uses and purposes for which such institutional fund is established or may add any or all of such accumulated income to the principal of such institutional fund, as is prudent under said standard. This section does not limit the authority of the governing board to accumulate income or to add the same to principal of an institutional fund as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

Chapter 180A: Section 5. Restrictions in gift instruments against accumulation of income or addition to principal

Section 5. Section four does not apply if and to the extent that the applicable gift instrument indicates the donor's intention that income of an institutional fund shall not be accumulated or shall not be added to the principal of the fund. A restriction against accumulation or addition to principal may not be implied from a designation of a gift as an endowment fund, or from a direction or authorization in the applicable gift instrument to apply to the uses and purposes of the fund the "income", "interest", "dividends", "currently expendable income", or "rent, issues or profits", or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this section.

Chapter 180A: Section 6. Investments

Section 6. In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investments by a fiduciary, may:

(1) invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or non-profit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

(2) retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(3) include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(4) invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

Chapter 180A: Section 7. Delegation of authority of board

Section 7. Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may (1) delegate to its committees, officers or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds, (2) contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act, and (3) authorize the payment of compensation for investment advisory or management services.

Chapter 180A: Section 8. Administration of powers of board; liability of members

Section 8. In the administration of the powers to appropriate appreciation, to accumulate income, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall consider long and short term needs of the institution in carrying out its educational, religious, charitable or other eleemosynary purposes, the problems peculiar to the institution, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

No member of the governing board shall be liable for any action taken or omitted with respect to such appropriation or accumulation or with respect to the investment of institutional funds, including endowment funds, under the authority granted in this chapter, if such member shall have discharged the duties of his position in good faith and with that degree of diligence, care and skill which prudent men would ordinarily exercise under similar circumstances in a like position.

Chapter 180A: Section 9. Release of restrictions imposed by gift instruments; limitations

Section 9. With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

If written consent of the donor cannot be obtained by reason of his death, disability, unavailability, or impossibility of identification, the governing board may apply in the name of the institution to a court of competent jurisdiction for release of a restriction imposed by the

applicable gift instrument on the use or investment of an institutional fund. The Attorney General shall be notified of the application and shall be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an endowment fund to a fund that is not an endowment fund.

A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

This section does not limit the application of the doctrine of cy pres.

Chapter 180A: Section 10. Application and construction

Section 10. This chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states, which enact it.

Chapter 180A: Section 11. Citation

Section 11. This chapter may be cited as the “Uniform Management of Institutional Funds Law”.

APPENDIX D.

COMMISSIONERS OF TRUST FUNDS

Chapter 41: Section 46. Town treasurer; duties; bond Section 46. The town treasurer shall be the custodian of all funds and securities of such trust funds, shall invest and reinvest them and expend there from moneys as directed by the commissioners. The treasurer shall furnish a bond satisfactory to them for the faithful performance of his duties.

APPENDIX E.

BOARDS OF CEMETERY COMMISSIONERS

Chapter 114: Section 25. Gifts or bequests for cemeteries; investment of funds; disposition of proceeds of sales of lots or burial rights

Section 25. A town in which cemetery commissioners are chosen may receive gifts or bequests for maintaining cemeteries or cemetery lots, which shall be paid into the town treasury and, with the accounts thereof, shall be kept separate from the other money and accounts of said town. The town treasurer shall invest all such funds in accordance with the stipulations, if any, accompanying them; otherwise he shall invest them as ordered by said commissioners and pay the income therefrom upon their order or with their approval. The proceeds of sales of lots or rights of burial in such cemeteries shall be paid into the town treasury and be appropriated to reimburse the town for the cost of the land, its care, improvement and embellishment, or the enlargement of the cemetery.

APPENDIX F.

PURPOSES FOR WHICH TOWNS MAY APPROPRIATE MONEY

Chapter 40: Section 5B. Stabilization funds; establishment

Section 5B. For the purpose of creating 1 or more stabilization funds, cities, towns and districts may appropriate in any year an amount not exceeding, in the aggregate, 10 per cent of the amount raised in the preceding fiscal year by taxation of real estate and tangible personal property or such larger

amount as may be approved by the director of accounts. The aggregate amount in such funds at any time shall not exceed 10 per cent of the equalized valuation of the city or town as defined in section 1 of chapter 44. Any interest shall be added to and become part of the fund.

The treasurer shall be the custodian of all such funds and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, co-operative banks or trust companies organized under the laws of the commonwealth, or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loans associations situated in the commonwealth.

At the time of creating any such fund the city, town or district shall specify, and at any later time may alter, the purpose of the fund, which may be for any lawful purpose, including without limitation an approved school project under chapter 70B or any other purpose for which the city, town or district may lawfully borrow money. Such specification and any such alteration of purpose, and any appropriation of funds into or out of any such fund, shall be approved by two-thirds vote, except as provided in paragraph (g) of section 21C of chapter 59 for a majority referendum vote. Subject to said section 21C, in a town or district any such vote shall be taken at an annual or special town meeting, and in a city any such vote shall be taken by city council.

Chapter 40: Section 5B. Stabilization funds; establishment

Section 5B. For the purpose of creating 1 or more stabilization funds, cities, towns and districts may appropriate in any year an amount not exceeding, in the aggregate, 10 per cent of the amount raised in the preceding fiscal year by taxation of real estate and tangible personal property or such larger amount as may be approved by the director of accounts. The aggregate amount in such funds at any time shall not exceed 10 per cent of the equalized valuation of the city or town as defined in section 1 of chapter 44. Any interest shall be added to and become part of the fund.

The treasurer shall be the custodian of all such funds and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, co-operative banks or trust companies organized under the laws of the commonwealth, or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loans associations situated in the commonwealth.

At the time of creating any such fund the city, town or district shall specify, and at any later time may alter, the purpose of the fund, which may be for any lawful purpose, including without limitation an approved school project under chapter 70B or any other purpose for which the city, town or district may lawfully borrow money. Such specification and any such alteration of purpose, and any appropriation of funds into or out of any such fund, shall be approved by two-thirds vote, except as provided in paragraph (g) of section 21C of chapter 59 for a majority referendum vote. Subject to said section 21C, in a town or district any such vote shall be taken at an annual or special town meeting, and in a city any such vote shall be taken by city council.

APPENDIX G.

MISCELLANEOUS PROVISIONS

Chapter 44: Section 53F1/2. Enterprise funds

Section 53F1/2. Notwithstanding the provisions of section fifty-three or any other provision of law to the contrary, a city or town which accepts the provisions of this section may establish a separate account classified as an "Enterprise Fund", for a utility, health care, recreational or transportation facility, and its operation, as the city or town may designate, hereinafter referred to as the enterprise. Such account shall be maintained by the treasurer, and all receipts, revenues and funds from any source derived from all activities of the enterprise shall be deposited in such separate account. The treasurer may invest the funds in such separate account in the manner authorized by sections fifty-five and fifty-five A of chapter forty-four. Any interest earned thereon shall be credited to and become part of such separate account. The books and records of the enterprise shall be maintained in accordance with generally accepted accounting principles and in accordance with the requirements of section thirty-eight. No later than one hundred and twenty days prior to the beginning of each fiscal year, an estimate of the income for the ensuing fiscal year and a proposed line item budget of the enterprise shall be submitted to the mayor, Select Board or other executive authority of the city or town by the appropriate local entity responsible for operations of the enterprise. Said board, mayor or other executive authority shall submit its recommendation to the town meeting, town council or city council, as the case may be, which shall act upon the budget in the same manner as all other budgets.

The city or town shall include in its tax levy for the fiscal year the amount appropriated for the total expenses of the enterprise and an estimate of the income to be derived by the operations of the enterprise. If the estimated income is less than the total appropriation, the difference shall be added to the tax levy and raised by taxation. If the estimated income is more than the total appropriation, the excess shall be appropriated to a separate reserve fund and used for capital expenditures of the enterprise, subject to appropriation, or to reduce user charges if authorized by the appropriate entity responsible for operations of the enterprise. If during a fiscal year the enterprise incurs a loss, such loss shall be included in the succeeding fiscal year's budget.

If during a fiscal year the enterprise produces a surplus, such surplus shall be kept in such separate reserve fund and used for the purposes provided therefore in this section.

For the purposes of this section, acceptance in a city shall be by vote of the city council and approval of the mayor, in a town, by vote of a special or annual town meeting and in any other municipality by vote of the legislative body.

A city or town which has accepted the provisions of this section with respect to a designated enterprise may, in like manner, revoke its acceptance.

Agreement to Abide by the Terms of the Investment Policy of the Town of Andover

I David J. Reilly, Treasurer of the Town of Andover, have reviewed this investment policy and will manage the Town's funds under my control in accordance with this policy.

I _____, as Representative of _____ have reviewed this investment policy and will manage the Town's funds under my control in accordance with this policy.

David J. Reilly, Treasurer Date

Investment Advisor Date

XIV. Policy Providing Grant of Location Application Procedures and Standards for Personal Wireless Service Facilities Located in Town Public Rights of Way

The Town of Andover ("Town") by and through its Select Board hereby adopts this Policy to provide grant of location application procedures and standards for Personal Wireless Service Facilities located in Town Public Rights of Way ("Policy").

PURPOSE AND INTENT OF POLICY

- a. The purpose of this Policy is to provide uniform and comprehensive procedures and standards to regulate the placement of Personal Wireless Service Facilities in the Public Rights of Way, consistent with Applicable Law. The Policy is intended to facilitate the development of Personal Wireless Service Facilities within the Public Rights of Way in order to meet the public need for reliable wireless service while: protecting public health and safety; assuring compatibility with and avoiding the incommoding of other uses of the Public Rights of Way; and safeguarding against degradation of the aesthetic and historic character of the Town, including but not limited to its Public Rights of Way, streetscapes, parks, historic areas, village centers and residential areas.
- b. The Policy is not intended to and should not be interpreted or applied to:
 - i. Prohibit or effectively prohibit the provision of Personal Wireless Services;
 - ii. Prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate wireless communications service, subject to any competitively neutral and non-discriminatory rules, regulations or other legal requirements for management of the Public Rights of Way;
 - iii. Unreasonably discriminate among providers of functionally equivalent services;
 - iv. Deny any Application for authorization to place, construct or modify Personal Wireless Service Facilities on the basis of environmental effects of radio frequency emissions to the extent that such Personal Wireless Service Facilities comply with the FCC's regulations concerning such emissions;

- v. Prohibit any collocation or modification that the Town may not deny under any applicable federal or state law; or
- vi. Preempt any applicable federal or state law.

DEFINITIONS

Alternative Location Evaluation

The evaluation of alternative locations required under this Policy.

Antenna Structure

Any structure designed to specifically support an antenna and/or any appurtenance mounted on such a structure or antenna.

Applicable Laws

Applicable Laws means all controlling applicable federal, state and local statutes, regulations, bylaws, policies, and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

Applicant

Any person or entity, including representatives thereof, submitting an Application to place Personal Wireless Service Facilities in the Public Rights of Way.

Application

A petition for a Grant of Location which is submitted pursuant to this Policy and Applicable Law.

Batch Application

Multiple separate Applications filed at the same time, each for one or more sites, or a single Application covering multiple sites.

Distributed Antenna System

A network of spatially separate antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area.

Eligible Facilities Request

An Eligible Facilities Request means as that term is defined under 47 U.S.C, §1455 and related FCC regulations, which involve a pole (1) located in a Public Right of Way and (2) classified as a “base station.”

Exception

A Grant of relief by the Town from a specific requirement or limitation in this Policy as part of a decision on a Grant of Location Application.

Facility

An antenna facility or Structure that is used for the provision of Personal Wireless Service, whether such service is provided on a standalone basis or commingled with other wireless communications services.

FCC

The Federal Communications Commission.

Grant of Location

Approval under G.L.c.166, §§21 and 22 and this Policy to construct, operate and maintain Personal Wireless Service Facilities at specific locations on, over or below a Public Right of Way, subject to compliance with all Applicable Laws.

Grantee

A party which has been issued a Grant of Location order by the Board, accepted the Grant of Location order and its Standard Conditions and recorded the Grant of Location order in accordance with Applicable Law.

Historic District

An area within the Town which has been established as an historic district pursuant to G.L.c 40C.

Historic Location Evaluation

The Historic Location Evaluation required under this Policy.

Personal Wireless Services

Personal Wireless Services means commercial mobile services, unlicensed wireless services and common carrier exchange access services, as set forth in 47 U.S.C. §332 (c) (7) (C) (1).

Personal Wireless Service Facilities

Facilities for the provision of Personal Wireless Services.

Personal Wireless Service Provider

A provider of Personal Wireless Services and, for purposes of this Policy a DAS operator and a similar carrier-neutral party whose facilities are used to provide Personal Wireless Services and who is qualified as an Applicant.

Public Rights of Way

Also referred to as a Public Way or Public Right of Way, an existing way in the Town which is (a) public in character by virtue of: (1) a laying out by the Town in the manner prescribed by statute; (2) prescription; or (3) prior to 1846, a dedication by the owner to public use, permanent and unequivocal, coupled with an express or implied acceptance by the public; and (b) dedicated to public use by the Town and for which the Town is responsible for management and maintenance.

Select Board

The Town of Andover Select Board.

Small Wireless Facilities

As used herein, consistent with FCC regulations, and unless superseded by a change in Applicable Law, Small Wireless Facilities are a subset of Personal Wireless Service Facilities which meet the following conditions:

- (1) The facilities-
 - i. Are mounted on structures 50 feet or less in height including their antennas as defined in 47 CFR section 1.1320(d), or
 - ii. Are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - iii. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
- (2) Each antenna associated with the deployment, excluding associated equipment (as defined in the definition of antenna in section 1.1320(d), is no more than 3 cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- (4) The facilities do not require antenna structure registration under part 17 of 47 CFR;
- (5) The facilities are not located on Tribal lands, as defined in 36 CFR 800.16(x); and
- (6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR section 1.1307 (b).

Strand-Mounted Antenna

Personal Wireless Service Facilities in which antennas, cables, lines and radio equipment are mounted directly on existing aerial cable between two Utility Poles and enclosed in a shroud.

Structure

For purposes of this Policy, (a) a Utility Pole or replacement Utility Pole and (b) any new pole, located in the Public Rights of Way, the primary purpose of which is to serve as a support structure for Personal Wireless Service Facilities.

Tower

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopoles. The requirements for a Tower and associated antenna facilities shall be covered in Town zoning bylaws. Towers are not permitted in the Public Rights of Way.

Town-Owned Infrastructure

Infrastructure, including but not limited to, streetlight poles and traffic signals owned, operated and maintained by the Town and located in a Public Right of Way.

Utility Pole

An upright pole used to support electric cables, telephone cables, telecommunications cables and related facilities owned and maintained by an electric distribution company, incumbent local

exchange carrier or provider of cable or telecommunications service, which is regulated by the Massachusetts Department of Public Utilities and/or Massachusetts Department of Telecommunications and Cable. A Utility Pole is not Town-Owned Infrastructure.

SCOPE OF POLICY

This Policy governs the permitting of:

- a. Personal Wireless Service Facilities attachments to existing or replacement Utility Poles which are located in the Public Rights of Way and which do not have any pre-existing wireless attachments.
- b. Modifications to existing Personal Wireless Service Facilities attached to existing or replacement Utility Poles which are located in the Public Rights of Way and which do have pre-existing wireless attachments but do not satisfy the requirements for an Eligible Facilities Request.
- c. Construction of a new pole in a Public Right of Way for the primary purpose of providing Personal Wireless Services; and
- d. Personal Wireless Service Facilities attachments to or modifications to existing Personal Wireless Service Facilities attached to existing Town-Owned Infrastructure in the Public Rights of Way, provided, however, that an Applicant seeking to attach to such Town-Owned Infrastructure must obtain a Grant of Location and enter into a revocable license agreement with the Town.

This Policy does not apply to the permitting of wireless communications facilities which are located in or on private ways or private property. Eligible Facilities Requests may be covered by a separate policy.

GRANT OF LOCATION PROCEDURES

- a. Eligible Applicants.
 - i. An eligible Applicant must have the right and authority to use the Public Rights of Way pursuant to Applicable Law (including, but not limited to G.L.c.166, §21) for purposes of constructing, installing, modifying, operating and maintaining facilities used to provide Personal Wireless Service.
 - ii. In order to establish eligibility, an Applicant must provide (1) a Statement of Business Operations filed with the Massachusetts Department of Telecommunications and Cable and evidence of its current registration status; (2) a copy of any current FCC license or other authorization covering the provision of Personal Wireless Service in the Town; and/or (3) other written evidence of authority which is satisfactory to the Town.

- iii. An Applicant shall also provide evidence of its authority to conduct its proposed activity within the Commonwealth of Massachusetts, such as a certificate from the Secretary of State of the Commonwealth of Massachusetts.
 - iv. Carrier-neutral Applicants, such as Distributed Antenna System operators, shall (1) provide satisfactory evidence that they have entered into a contract with at least one Personal Wireless Service Provider which will make use of the proposed Facilities; or (2) accept as a Grant of Location condition that they shall not commence construction of their Personal Wireless Service Facilities prior to notifying the Town of the execution of such a contract and providing satisfactory evidence of such contract.
- b. Submission of Applications; Fees.
- i. Applications shall be submitted to the Town Clerk's Office accompanied by payment of the Application Fee. Application Fees are subject to modification and may be revised by the Select Board from time to time.
 - ii. Application Fees are \$500 for a single Application for 1-5 locations and \$100 for each additional location where the support Structure is an existing Utility Pole or a Utility Pole which replaces an existing Utility Pole at substantially the same location. The same Application Fees apply to existing or replacement Town-Owned Infrastructure locations.
 - iii. The Application Fee for a new support Structure shall be \$1,000 for each new location. Applicants may be required to pay a peer review fee.
 - iv. Applicants are responsible for the payment of fees for other permits needed in order to construct Personal Wireless Service Facilities and commence operations.
 - v. Permittees will be subject to a recurring annual fee of \$270 per location.
 - vi. Applications shall be submitted using forms prescribed by and available from the Town Clerk's Office.
 - vii. Ten (10) hard copies and 1 (one) electronic copy of the Application(s) must be filed with the Town Clerk's Office. Applications may be hand-delivered during normal Town Hall office hours or mailed. If mailed, the date of receipt shall be the date from which Shot Clock intervals are measured. No emailed applications shall be accepted for filing.
 - viii. Upon receipt, the Town Clerk's Office shall date and time stamp the Application as received.
 - ix. The Town Clerk's Office shall circulate a copy of the Application to the following departments for comment and review: Department of Public Works; Building; Planning; Police; Fire; Law; and any other department the Town Manager, in his or her sole discretion, determines.

c. Incomplete Applications.

- i. The Select Board will follow procedural requirements for incomplete Applications and any continued incompleteness established by the FCC in its orders regarding applications to locate Personal Wireless Service Facilities in the Public Ways, subject to 47 U.S.C. §332(c)(7)(B) and FCC orders, including any specific requirements that apply in the case of Small Wireless Facilities.
- ii. Formal notice of initial incompleteness shall be given to the Applicant by the Town Manager as soon as possible, and in all cases within ten (10) days of the commencement of the shot clock interval, as determined in accordance with subsection (h) of this Policy, where the Application covers solely Small Wireless Facilities and otherwise, within thirty (30) days of the commencement of the shot clock interval, as determined in accordance with subsection (h) of This Policy, and will specifically identify: (1) all missing documents and information and all unpaid fees; and (2) the code provision, regulation, form requirement, policy requirement, application instruction or otherwise publicly stated requirement that requires the documents, information and/or fees be submitted.
- iii. If such notice is not provided to the Applicant within such applicable period, the Select Board shall not toll the running of a shot clock interval based upon the incompleteness of the Application. However, an Applicant remains responsible for submitting a complete Application and bears the risk of a denial of its Application based upon incompleteness of its Application even if no timely notice of incompleteness was provided.
- iv. An Application deemed incomplete pursuant to (c)(ii) of the above procedures must be made complete within one hundred eighty (180) calendar days after the issuance of the notice of incompleteness or the Application shall be deemed to be automatically withdrawn. No refunds of Application fees or peer review fees for reasonable costs incurred by the Town and paid by the Applicant shall be refunded for withdrawn applications.
- v. In the case of a Batch Application, a notice of incompleteness may apply to fewer than the total number of locations included in the batch. In this instance, each location which is not subject to a notice of incompleteness will be processed in accordance with the applicable shot clock interval.

d. Complete Application or No Notice of Incompleteness.

If no notice of incompleteness has been issued, the Select Board shall be notified by the Town Manager.

e. Exceptions.

- i. Applications shall include all of the forms, information, materials and documentation required by this Policy and which demonstrate the Applicant's compliance with Grant of Location Standards and acceptance of Grant of Location Standard Conditions.
- ii. A limited exception from a requirement under this Policy may be warranted where strict compliance would impose, if so determined by the Select Board, an unnecessary or unduly burdensome requirement on the Applicant, taking into account benefits to the Town from enforcing the requirement and the existence of a reasonable alternative. An Applicant requesting an Exception shall include in its Application (a) the requirement for which an Exception is requested; (b) detailed factual support for the granting of the requested Exception; and (c) the reasonable alternative requirement being proposed.
- iii. If the Applicant intends to seek an Exception from any Personal Wireless Service Facilities Grant of Location Standards or Grant of Location Standard Conditions regarding the placement, construction and modification of Personal Wireless Service Facilities on the grounds that it would: (1) prohibit or have the effect of prohibiting the provision of Personal Wireless Services; (2) unreasonably discriminate among providers of functionally equivalent services; or (3) otherwise conflict with federal law, the Applicant shall submit as part of its Application a detailed written explanation of the Exception requested and the basis for granting an Exception, supported by factual information.
- iv. The Select Board will determine whether to grant an Exception and provide a written statement of reasons regarding its determination.

f. Modification or Supplementation of Application.

Any modification(s) of or supplementation to its Application as originally submitted may result in a delay of the hearing process and Select Board decision. If the Select Board determines that any submitted proposed modification or supplementation is so substantial that the public notice of the Application is inadequate, submission of a new Grant of Location Application shall be required.

g. Peer Reviews.

- i. In accordance with G.L. c. 44, § 53G, the Select Board shall determine whether a peer review of an Application is needed in order to enable the Select Board to fully and timely evaluate the technical aspects of the Application, including but not limited to: accuracy, adequacy and completeness of submissions; compliance with Policy Grant of Location Standards and Requirements; proof of compliance with applicable FCC radio frequency emissions standards; whether any requested Exception is warranted; technical feasibility issues (including, but not limited to, an evaluation of alternative locations); evaluation of requested Exceptions; the validity of conclusions reached or

claims made by the Applicant; and any other factors deemed appropriate by the Select Board to effectuate the purposes of this Policy. A peer review may be required to enable the timely review of a Batch Application. A peer review shall be conducted by a consultant or consultants selected by the Select Board at the Applicant's expense, for the reasonable costs incurred by the Town. The Applicant shall be entitled to seek administrative review of the selection of such consultant or consultants by filing an appeal with the Select Board; provided that the grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. Any such administrative review shall be subject to the provisions of G.L. c. 44, § 53G.

- ii. The Select Board may require advance periodic monetary deposits to secure reimbursement for the reasonable costs of peer review. Such deposits will be held and accounted for in accordance with Applicable Law. If it appears to the Select Board that the initial deposit will be insufficient to cover current or anticipated peer review expenses, the Select Board shall cause the Applicant to advance an additional deposit to meet such current or anticipated expenses. Any materials to be submitted by a Town peer reviewer shall be filed with the Town Manager or designee and provided to the Applicant at least forty eight (48) hours prior to the public hearing, provided, however, if the Applicant modifies or supplements its Application, the peer reviewer shall use reasonable efforts to modify or supplement the peer review within forty-eight (48) hours after receipt of the Applicant's modification or supplementation.

h. Shot Clock Intervals.

Shot Clock intervals are determined by counting forward beginning on the day after the date when the Application is date stamped by the Town Clerk, by the number of days of the shot clock period identified below; provided, that if the shot clock interval calculated in this manner is a holiday, the shot clock interval will end on the next business day after such date. The term "holiday" means any of the following: Saturday, Sunday, and any holiday recognized by the Town and any day the Town is closed for business. The term "business day" means any day that is not a holiday, as defined herein. The shot clock interval may be reset or tolled by mutual agreement or upon the Town Manager's issuance of a notice of incompleteness as provided under this Policy and applicable federal law.

- i. For an Application to attach Small Wireless Facilities to an existing Utility Pole or replacement pole, the shot clock interval shall be within sixty (60) calendar days of the shot clock interval commencement date, unless the time period is reset or tolled by mutual agreement or due to incompleteness of the Application.
- ii. For an Application to deploy Small Wireless Facilities using a new Utility Pole or other new Structure, the shot clock interval shall be within ninety (90) calendar days of the shot clock interval commencement date, unless the time period is reset or tolled by mutual agreement or due to incompleteness of the Application.

- iii. In the case of a Batch Application, the shot clock interval will be based on whether all of the locations in the batch are of a same type and would be governed by a sixty (60) calendar day or ninety (90) calendar day shot clock if filed separately. If the batch includes proposed locations that would be subject to different shot clocks, the ninety (90) calendar day shot clock interval shall apply to the entire batch.
 - iv. For an Application to attach Personal Wireless Service Facilities which are not Small Wireless Facilities to an existing Utility Pole or replacement pole, the shot clock interval will be within ninety (90) calendar days of the shot clock interval commencement date, unless the time period is reset or tolled by mutual agreement or due to incompleteness of the Application.
 - v. For an application to deploy Personal Wireless Service Facilities which are not Small Wireless Facilities and are using a new Structure, the shot clock interval will be within one hundred fifty (150) calendar days of the shot clock interval commencement date, unless the time period is reset or tolled by mutual agreement or due to incompleteness of the Application.
 - vi. In the case of an attachment to Town-owned Infrastructure that requires a pole to be replaced in order to safely accommodate the attachment, the shot clock interval will be sixty (60) days in the case of attachments which are Small Wireless Facilities and ninety (90) days in the case of attachments which are not Small Wireless Facilities.
 - vii. Locations in excess of five (5) in a Batch Application, the pendency of multiple applications from the same Applicant or the Applicant and other applicants, the submission of additional materials by the Applicant, failure of the Applicant to have present at a hearing individuals who can explain and answer questions regarding all facets of the Application and other factors beyond the reasonable control of the Select Board may constitute a reasonable basis for exceeding the shot clock interval. The Select Board shall identify such factors in a decision which is rendered after the applicable shot clock interval.
 - viii. The Select Board and the Applicant may enter into one or more tolling agreements in order to extend the applicable shot clock interval.
- i. Public Hearing.
 - i. The Applicant shall pay for and publish and mail legal notices of the public hearing to local newspapers and abutters, as applicable, in accordance with G.L.c.166, §22. The Applicant is responsible for obtaining the abutters list for each pole location within the Application. The Applicant must provide proof of mailing and publication to the Town Manager.
 - ii. The Select Board will conduct a public hearing on the Application, subject to public notice requirements and requirements for direct notice to abutters under G.L. c. 166, § 22.

iii. The Board may supplement the statutorily required notice by methods including, but not limited to, posting a notice of hearing on the Town website, posting Application materials on the Town website and establishing a system which enables interested parties to obtain notice by email when Personal Wireless Service Facilities Grant of Location Applications are filed.

j. Written Decision and Statement of Reasons.

The Board shall issue a written decision together with findings and a statement of reasons for granting, denying or granting with conditions the Application, based upon the public hearing record. The criteria to be applied shall include the following:

- i. whether the Application is in material compliance with the Grant of Location Procedures and Standards;
- ii. whether the Applicant has accepted the Standard Conditions;
- iii. whether Application fees have been paid;
- iv. whether the Application is complete in material respects; and
- v. whether and in what respects the proposed facilities at the proposed location would incommode public use of Public Rights of Way.

The Select Board may consider, among other things:

- i. adverse aesthetic and public safety impacts of the proposed Personal Wireless Service Facilities upon properties that are located adjacent to, or in close proximity to, the proposed location's Personal Wireless Service Facilities or upon any other properties situated in a manner that would sustain adverse aesthetic or public safety impacts due to installation of the proposed Personal Wireless Service Facilities;
- ii. adverse aesthetic impacts upon the Town, including its parks, scenic ways, streetscapes, historic areas (including but not limited to Historic Districts) or other properties within the Town;
- iii. whether the proposed installation has a sufficient fall zone and/or safe zone to afford the general public safety against the potential dangers of structural failure, icfall, debris fall, pole knock down and fire;
- iv. whether the proposed personal Wireless Facilities would incommode public use of Public Rights of Way;
- v. whether a requested exception has been denied; and

vi. the feasibility of an alternative location where the adverse impacts of the proposed Personal Wireless Service Facilities would be mitigated.

k. Appeals.

Any appeals from a final decision by the Select Board shall be governed by Applicable Law.

l. Acceptance of Grant of Location Order with Conditions. Grant of Location orders with any conditions (including Standard Conditions) must be accepted by the Applicant as required under G.L. c. 166, § 22. The Applicant shall pay the fee for recording the Grant of Location order as required under G.L.c.166, §22.

m. Additional Grant of Location Approval Required; Activity that Does Not Require Additional Grant of Location Approval.

i. Any increase in the height, number or dimensions of Personal Wireless Service Facilities components after construction shall be subject to Town approval in accordance with Applicable Law.

ii. No Town Grant of Location approval is required for renewing, repairing or replacing the Personal Wireless Service Facilities as long as they do not increase the height, number or dimensions of the existing Personal Wireless Service Facilities or decrease ground clearance below the minimum allowed. A Permittee shall notify the Town of any proposed renewal, repair or replacement of Personal Wireless Facilities and demonstrate whether or not they increase the height, number or dimensions of the existing Personal Wireless Facilities or decrease ground clearance below the minimum allowed and obtain written acknowledgment from the Town that no approval is required before commencing any such renewal, repair or replacement.

iii. In the event that, after a Grant of Location order and before construction, the position of a Personal Wireless Service Facilities component on a Utility Pole or other Structure needs or is required to be moved, the Permittee shall submit any revisions to its plans to the Director of Public Works, the Fire Chief and the Building Inspector, who shall each submit written comments to the Select Board or its designee, who may authorize the change so long as the change does not reduce ground clearance below the minimum allowed, or increase the height, dimensions or number of the Personal Wireless Service Facilities by more than a *de minimus* amount (as determined by the Town) or violate applicable Town requirements.

n. Other Permits Needed in Order to Construct and Operate

i. Grant of Location Permittees are responsible for obtaining any additional permits which are needed in order to construct and operate the proposed Personal Wireless Service Facilities. Such permits may include, but are not limited to, building permits, electrical permits, street opening permits and historic district commission certificates.

Separate applications and application fees apply to each permit as determined by the applicable permitting authority.

- ii. If the proposed location is within an Historic District of the Town, and if the Applicant is required to obtain, but has not received from an Historic District Commission and submitted with its Application an appropriate certificate and statement that all appeal periods have expired, the Applicant shall accept as a condition of a Grant of Location that it shall not construct the proposed Personal Wireless Service Facilities until after it has received a certificate issued by the Historic District Commission which is final and not subject to appeal and has filed such certificate with the Town Clerk's Office. If applicable, the Applicant shall submit to the Select Board any formal statement by an Historic District Commission that it such commission does not exercise authority over the placement of Poles and/or Personal Wireless Service Facilities.

GRANT OF LOCATION STANDARDS AND REQUIREMENTS

The following Grant of Location Standards and Requirements are deemed necessary to preserve the aesthetic character of the Town, its neighborhoods and areas affected by the deployment of Personal Wireless Service Facilities in the Public Rights of Way, avoid visual clutter, preserve public safety, protect historical resources, and prevent the incommoding of public use of the Public Rights of Way.

LOCATION

The Applicant shall provide a detailed map with the locations of its existing Personal Wireless Service Facilities within the Town. The Applicant shall provide a detailed map with locations of the existing and/or proposed poles or other structures on which the proposed Personal Wireless Service Facilities are to be placed, including specific pole identification numbers, if applicable. The Applicant shall provide the measured distances between the proposed location and each of the four (4) closest buildings or structures. The locational data must be supplied in a format that can be uploaded as a data layer to the Town's GIS map. The Applicant shall provide an explanation of the service objectives of its proposal (such as improved coverage or capacity, enhanced or new services) and how the proposal addresses those objectives.

a. Most Preferable Locations

The following are the most preferred locations for new small wireless facilities in the order of preference (1 being most preferable):

- i. *Industrial Districts* if not adjacent to a park, residential district or historic district.
- ii. *Public Rights of Way* areas if not adjacent to a park, residential district or historic district.

b. Least Preferable Locations

The following are the least preferred locations for new Personal Wireless Service Facilities in the order of preference (1 being least preferable).

- i. *Residential Districts*
- ii. *Parks*
- iii. *Historic Districts or in close proximity to a historic building*
- iv. *Scenic ways*

c. Historic Location Evaluation.

In the event that the Applicant proposes a location which is within an Historic District or within one hundred fifty (150) feet of an historic building (listed in the Massachusetts Historic Register) located outside of an Historic District, the Applicant shall submit as part of its Application an Historic Location Evaluation. The Historic Location Evaluation shall include, at a minimum:

- i. a description of Applicable Law pertaining to the placement of the Personal Wireless Communications Facilities at the proposed location (e.g., Town bylaws and regulations, State Historic Preservation Office requirements, and FCC regulations and agreements to implement Section 106 of the National Historic Preservation Act), including any claimed exemption from any requirement;
- ii. documentation of all due diligence steps taken to comply with such Applicable Law;
- iii. any formal communications (letters, reports, emails, for example) from local, state and federal organizations (including any Town Historic District Commission) regarding the proposed facilities and location; and
- iv. an Alternative Location Evaluation, as described below.

Applicants shall avoid pole locations that would be directly in front of and on the same side of the Public Right of Way as an historic building listed in the Massachusetts Historic Register.

d. Alternative Location Evaluation.

Applicants shall avoid pole locations that would be:

- i. directly in front of a residential dwelling or commercial building;
- ii. on a scenic road; or
- iii. at an entry point to a village center (if so designated by the Planning Department).

If the proposed pole location is one of the above locations, the Applicant shall submit as part of its Application a documented evaluation of alternative locations, including whether an alternative location avoids the above concern and whether an alternative location is technically feasible to meet the service objectives of the proposed location. The Applicant

shall explain and document whether any alternative pole location evaluated is unavailable based upon a pole owner documented determination in accordance with pole attachment license agreement terms and conditions or technically infeasible due to distance, line of sight or other factors. Such evaluation shall be supported by factual statements, documents, reports and other information (which may include propagation maps and drive test results) and an explanation of the criteria applied to determine whether an alternative location is technically feasible. The Board reserves the right to suggest that the Applicant evaluate an alternative location and consider the use of such alternative location if the Applicant has the right to use the alternate location on reasonable terms and conditions and the alternative location is a technically feasible means of meeting the proposal's service objectives.

e. Collocation Preference.

It is the Town's strong preference that the Applicant collocate the proposed Personal Wireless Service Facilities on existing or replacement Utility Poles (in substantially the same location), or Town-Owned Infrastructure. The Applicant shall provide a description of efforts to collocate the equipment on existing or replacement Utility Poles. A good faith effort to collocate is required and evidence of such efforts must be included within the Application.

If the Applicant contends that Personal Wireless Service Facilities cannot feasibly be placed on existing Utility Poles or replacement poles in substantially the same location, the Applicant shall explain and document why an alternative Utility Pole location is not technically feasible or otherwise unavailable.

f. Replacement Poles.

If an Application requires replacement of an existing Utility Pole to accommodate proposed Personal Wireless Service Facilities, the replacement pole shall be designed to resemble the appearance and dimensions of existing Utility Poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible (taking into account pole owner control of its Utility Poles). Any licensing of the use of a pole which is Town-Owned Infrastructure will require the replacement of the existing Town-owned pole and such other specifications as determined by the Director of Public Works. These specifications will be part of the license agreement between the Applicant and the Town.

g. New Poles.

Subject to Exceptions under these Standards, no new Pole whose primary purpose is to support Personal Wireless Service Facilities shall be installed within the Public Rights of Ways of the Town unless authorized by the Select Board. Only pole mounted antennas and strand mounted antennas shall be permitted in the Public Rights of Way. Towers are prohibited in the Public Rights of Way. An Applicant proposing to construct or install a new pole primarily for wireless communications use must submit a request for an Exception and demonstrate that (1) attachment to an existing Utility Pole or replacement Utility Pole at its

existing location is not a technically feasible alternative; (2) denial of the proposed location would effectively prohibit its provision of Personal Wireless Services; or (3) another ground for granting an Exception applies.

An Exception shall be required to place a new pole that is not a replacement for an existing pole in the Public Rights of Way. If an Exception is granted for placement of a new pole in the Public Rights of Way:

- i. To the maximum extent feasible (taking into account ownership of the new pole), the new pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced.
- ii. Unless otherwise ordered by the Select Board, such new poles shall be subject to a height limitation of forty (40) feet unless a taller height is permitted by the Board.
- iii. For all wooden poles, conduit and cables attached to the exterior of poles shall be mounted flush thereto.
- iv. A new pole shall not require the replacement of adjacent poles or require the rearrangement of existing facilities of the pole owner, the Town or another entity attaching to adjacent poles.

h. Underground Utility Area.

New poles shall not be installed for wireless communications purposes in a Public Way location where existing cable, electric or telecommunications facilities in the Public Way are located underground. If there is an existing Utility Pole or Town-Owned Infrastructure in such a location, a party wishing to attach Personal Wireless Service Facilities to such Utility Pole or Town-Owned Infrastructure must obtain a Grant of Location and permission from the Utility Pole owner or a license agreement from the Town.

i. Prohibited Pole Locations.

Personal Wireless Service Facilities are not permitted to be installed on Double Poles or on Utility Poles which are scheduled for replacement or removal without replacement.

j. Other Location Standards.

Personal Wireless Service Facilities:

- i. shall not be placed within the travel way of the sidewalk to impede ADA accessibility. Sidewalk travel ways shall maintain a minimum of 4 feet in width to accommodate the snow clearing vehicles along the sidewalks.

- ii. shall be located in a manner that does not impede, obstruct, or hinder usual public pedestrian or vehicular travel or public safety on a Right of Way.
- iii. shall be located in a manner that does not obstruct the legal use of a Right of Way by a utility, cable or telecommunications service provider.
- iv. shall be located in a manner that complies with Americans with Disabilities Act (ADA) standards and requirements, including but not limited to sidewalk access and clearance requirements. The Applicant shall demonstrate factually in its Application that the proposed construction meets ADA requirements when in the Public Rights of Way.
- v. shall be located in a manner that does not negatively impact the structural integrity of the associated wireless support Structure.
- vi. shall be located in alignment with existing trees, utility poles, streetlights, and buildings.
- vii. shall be located equidistant between trees when possible, with a minimum of 15 feet separation such that no proposed disturbance shall occur within the critical root zone of any tree.
- viii. shall be located with appropriate clearance from the existing facilities of a utility, cable or telecommunications service provider.
- ix. shall be located not within sight triangles at street intersections.
- x. shall not be located directly in front of any existing residential, commercial or industrial structure.
- xi. shall, to the greatest extent possible, be located in line with existing lot lines or an equidistance from any two existing structures. In areas of the Town where multiple structures abut each other and/or where no side lot setback requirements exist, new wireless support structures shall not be located directly in front of an entrance or window of any existing structure.



k. Use of Town-Owned Infrastructure.

Attachment to Town-Owned Infrastructure in the Public Rights of Way shall require, in addition to a Grant of Location, a license agreement with the Town. A form of license agreement is available from the Office of the Town Manager.

l. Pole Height and Diameter.

- i. Standalone Poles: Unless otherwise ordered by the Select Board, the height of any new pole including its antenna(e) shall not exceed 45 feet
- ii. Wood Poles: Unless otherwise ordered by the Select Board, the height of any replacement wood pole including its antennae shall not exceed 45 feet.
- iii. Antennas shall be located entirely within a shroud or canister type enclosure.

The diameter of the Antenna enclosure at its widest point should not be wider than two times the diameter of the top of the wireless support structure. The enclosure shall not exceed six cubic feet in volume.

m. Setbacks.

The Board will evaluate whether and to what extent a minimum setback from any residential or commercial property is reasonably necessary where the proposed location is not an existing or replacement Utility Pole. The minimum setback distance may take into account a safe distance based upon the height of the proposed facilities, any other safety considerations, and proximity to residential or commercial property front entrances and windows, based on safety and aesthetic considerations.

VISUAL IMPACT ANALYSIS

- a. The Applicant shall provide “before and after” photographic images taken from the perspectives of the properties situated in closest proximity to the location being proposed, as well as those properties which would reasonably be expected to sustain the most significant adverse aesthetic impacts due to such factors as close proximity to the site, elevation relative to the site and the existence or absence of a clear line of sight between the proposed location and their location.
- b. The photographic images shall depict the height at which the proposed facility will stand when completed, including all portions of proposed attachments to the support Structure, including but not limited to the support Structure, all antennas, transmitters, and any ground-mounted equipment.
- c. If any multiple antennas are proposed to be attached to a single Structure, the Select Board may limit the number of antennas and related equipment so attached in order to prevent or limit negative visual impacts and protect the safety of the public.

STRAND-MOUNTED ANTENNAS

The requirements pertaining to strand-mounted antenna cover aesthetic, public safety and public convenience considerations.

- a. Strand-mounted antenna shall only be located between two utility poles on a strand that is parallel to the ground and the edge of the Public Right of Way. Only one strand-mounted antenna shall be allowed in each span.
- b. Strand-mounted antenna shall not be located on any strand between two utility poles that crosses the Public Right of Way.
- c. All strand-mounted antenna shall be located entirely within the limits of the public right of way.
- d. Strand-mounted antenna shall be placed as close as possible to the nearest utility pole, and in no event more than five (5) feet from the pole, subject to any requirements of the utility pole owner for safety clearance.
- e. Each strand-mounted antenna shall not exceed a maximum volume of three (3) cubic feet comprised of radio, antenna and supplementary equipment, but excluding mounts and connectors. No strand-mounted component shall exceed eighteen (18) inches in diameter, and no portion shall extend greater than a distance of twelve (12) inches measured from the strand on which it is mounted.
- f. An Applicant must demonstrate that the supporting poles are appropriately sized and have sufficient structural strength to accommodate the additional material load per the National Electrical Safety Code.

- g. An Applicant must demonstrate that the proposed location does not involve a double pole or a pole scheduled to be replaced or removed without replacement within twelve (12) months.
- h. Strand-mounted antenna shall not be installed directly below pole-mounted streetlight fixtures.
- i. Electric service for all strand-mounted antenna shall be fed from a pole-mounted power supply.
- j. All new installations, upgrades, or modifications of strand-mounted antenna capable of any radio frequency emission shall comply with radio frequency regulations of the FCC.
- k. All conductive parts of the strand-mounted antenna assembly shall be bonded together and grounded to the pole ground.
- l. Strand-mounted antenna shall be installed with good workmanship and shall not interfere with climbing and maintenance of the Utility Poles.
- m. A service disconnect switch shall be installed for all power supplies for the purpose of powering the equipment.
- n. Each strand-mounted antenna shall be tagged with an antenna ownership identification tag, RF Notice tag and RF Caution tag.
- o. Clearances shall comply with the National Electrical Safety Code and utility pole owner requirements.
- p. The Town shall have the right, but not the obligation, to inspect strand-mounted antenna and may include such inspection as part of any annual inspection of the Grantee's facilities located in the Public Ways pursuant to a Grant of Location.
- q. Strand-mounted antenna shall be compatible with the color requirements under Subsection 19(e) of this Section B of these Regulations.

STANDARDS AND REQUIREMENTS FOR PERSONAL WIRELESS SERVICE FACILITIES ATTACHMENTS

- a. Surface Area of Antenna.

In general, the personal wireless service antenna, including antenna panels, whip antennas or dish-shaped antennas, shall be as small as practicable, taking into account technical feasibility and aesthetic and public safety considerations.

- b. Size of Above Ground Personal Wireless Service Facilities.

The total combined volume of all above ground equipment and appurtenances serving a personal wireless service antenna shall be as small as practicable, taking into account technical feasibility and aesthetic and public safety considerations.

c. Lowest Point Above Grade.

The operator of Personal Wireless Service Facilities or Small Wireless Facilities shall, whenever possible, locate the base of the equipment or appurtenances at a height of no lower than eight (8) feet above grade. No facilities may be installed at grade without the approval of the Director of Public Works and the Select Board.

d. Height.

Unless otherwise ordered by the Select Board, the top of the highest point of the Utility Pole shall not exceed forty (40) feet above ground level and the combination of the height of the utility pole and personal wireless service antenna extension shall not exceed forty-five (45) feet above ground level.

e. Color.

To the maximum extent practicable, the color of the Personal Wireless Service Facilities shall be similar to and blend with (a) the existing equipment on the Utility Pole and/or on other nearby Utility Poles; (b) the color of the Utility Pole; or (c) a color reasonably satisfactory to and directed by the Town. The Personal Wireless Service Facilities shall have non-reflective materials. Any applicable Planning Department design guidelines shall be taken into account in applying these criteria. Except when Personal Wireless Service Facilities are attached to a wood pole, poles and all equipment must be the same color and finish as surrounding streetlight poles or third party poles such as Utility Poles; (d) All colors shall match the background of any wireless support structure that the facilities are located upon, including equipment cabinets. Notwithstanding the foregoing, in the case of existing wood utility poles, finishes of conduit shall be zinc, aluminum or stainless steel, or colored to match those metal finishes, and equipment cabinets shall be the color of brushed aluminum. Equipment enclosures shall be as small as possible, but in no event larger than 28 cubic feet in volume.

f. Shielding of Wiring.

Any wiring on the pole must be covered with an appropriate cover or cable shield.

g. Mounting.

Antenna elements and equipment shall be mounted as close to the surface of the pole as technically feasible.

h. Antenna Panel Covering.

Personal Wireless Service Facilities antenna shall include a radome, cap or other antenna panel covering or shield and shall use a color that blends with the color of the utility pole on which it is mounted.

i. Signage.

Other than signs required by federal or state law, Personal Wireless Service Facilities shall not have signs installed thereon. Identification tags may be utilized in accordance with governmental and/or pole owner requirements. Except as otherwise required under Applicable Law or by a pole owner, Corporate or company names (except for location identification purposes noted below), logos, identifying graphics or other advertisements shall not be painted, embossed, applied or displayed in any manner on the poles, equipment enclosures (boxes, cabinets, etc.), hand hole covers, or other component of the pole. Individual location identification information will be permitted, provided no letter, number, or graphic symbol is taller than one inch in height (unless required under Applicable Law or by the pole owner).

i. Logos/Decals: The small wireless facility operator/permittee shall remove or paint over unnecessary equipment manufacturer decals. The color shall match or shall be as approved by the Building Inspector. Small wireless facilities and wireless support structures shall not include advertisements and may only display information required by a federal, state, or local agency. The small wireless facility operator/permittee shall utilize the smallest and lowest visibility RF warning sticker required by government or electric utility regulations. Placement of the RF sticker shall be as close to the antenna as possible.

ii. The small wireless facility permittee shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the small wireless facility that is visible to the public. Signage required under this section shall not exceed 4 inches by 6 inches, unless otherwise required by law (e.g. radio-frequency (RF) ground notification signs) or the Town. If no cabinet exists, the signage shall be placed at the base of the pole.

j. Enclosures; Concealment Elements and Stealth Elements.

i. Wires shall be inside of non-wood poles and wires on wood poles shall be covered with an appropriate cover or cable shield.

ii. All cables, wires and connectors must be fully concealed on the wireless support structure and shall match the color of the wireless support structure. There shall be no external cables and wires related to the small wireless facility hanging off or otherwise exposed on the wireless support structure.

iii. All antenna enclosures shall either be mounted to the top of the Utility Pole or other Structure and aligned with the centerline of the Utility Pole or other Structure, or mounted to the side of the Utility Pole or other Structure such that the vertical

centerline of the Antenna enclosure shall be parallel with the Utility Pole or other Support Structure with the height of the side mounted Antenna being at a location on the Utility Pole or other Structure noted in the Application and approved by the Select Board, but at least ten (10) feet above ground level at its lowest point.

- iv. Radio equipment shall be fully enclosed within an equipment cabinet or concealed within the antenna shroud enclosure matching the color and materials of the wireless support structure, unless other materials or colors are approved by the Select Board.
- v. Applicant shall identify in its Application stealth elements and concealment elements being employed.
- vi. Concealment elements. Concealment elements mean measures which conceal Personal Wireless Service Facilities or make them appear like something other than Personal Wireless Service Facilities. It is intended that concealment elements be consistent with FCC orders and court decisions regarding the meaning of concealment elements.
- vii. Stealth Elements. Stealth elements differ from concealment elements. They are other measures intended to minimize the visual impacts of Personal Wireless Service Facilities. They include but are not limited to: (i) radio frequency transparent screening; (ii) approved specific colors; (iii) minimizing the size of the site; (iv) integrating the installation into existing utility infrastructure; and (v) installing new infrastructure that matches existing infrastructure in the area surrounding the proposed site.

k. Wiring and Cabling.

Wires and cables connecting the antenna and/or appurtenances shall be installed in accordance with the National Electrical Safety Code, any other applicable codes in force at the time of installation of the wires and cables, and any stricter standards required by a pole owner.

l. Grounding.

The Personal Wireless Service Facilities shall be grounded in accordance with the National Electrical Safety Code in force at the time of installation of the wires and cables or any stricter standard required by a pole owner.

m. Guy Wires.

No guy wires or other support wires shall be used in connection with Personal Wireless Service Facilities unless the facilities are proposed to be attached to an existing Utility Pole that incorporates guy wires prior to the date that the applicant has applied for a Grant of Location, or unless the use of guy wires or support wires allows for an installation that furthers the objectives of this Policy better than other practical alternatives that do not

include the use of such wires. Guy wires shall not interfere with the use of a driveway or the use of sidewalks.

n. Wind Loads.

The proposed Personal Wireless Service Facilities shall be properly engineered to withstand wind loads required by applicable safety codes and pole owner requirements. This requirement may be satisfied if the Applicant provides with its application or pursuant to a condition of approval a certificate of compliance with applicable safety codes and pole owner requirements from the pole owner, or a structural engineering certification provided by a Massachusetts licensed engineer.

o. Number Limitation.

Unless otherwise authorized by the Select Board for good cause shown, only one (1) Personal Wireless Service Provider or carrier-neutral facilities provider shall be allowed to own, attach and/or operate Personal Wireless Service Facilities which are attached to a single Utility Pole or strand-mounted. This provision does not prohibit a carrier neutral host from allowing one or more Personal Wireless Service Providers to use its facilities. The owners or operators of collocated attachments are jointly responsible for compliance with the FCC's aggregate radio frequency emissions regulations and are required to demonstrate that their facilities will be in compliance within thirty (30) days after the construction of the additional attachment to the Structure.

p. Obstructions.

Each component part of the Personal Wireless Service Facilities shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, cause safety hazards to pedestrians and motorists or otherwise incommode the public's use of the Public Right of Way. Nor shall any such component obstruct intersection visibility. The Personal Wireless Service Facilities shall not interfere with access to or operation of streetlights, fire alarm cables, municipal fiber optic facilities, fire hydrants, fire alarms, fire stations, fire escapes, water valves and facilities, sewer facilities, underground vaults, valve housing structures, or any other public health or safety facilities. The Personal Wireless Service Facilities shall not interfere with snow plowing, sidewalk clearing, leaf removal or the maintenance of public shade trees. The maintenance of the Personal Wireless Service Facilities shall not cause any such obstructions.

q. Traffic Safety.

All Personal Wireless Service Facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic and pedestrian safety. Personal Wireless Service Facilities shall not project over the public right of way or sidewalk (beyond the curb) in such a manner and at a height that will incommode the public use of the Public Right of Way or sidewalk. The Applicant shall comply with applicable traffic control standards at all times during construction or installation.

r. Lighting.

The Grantee's Personal Wireless Service Facilities shall not produce any lighting or blinking light that is not required by federal or state law, unless otherwise permitted by the Select Board. New small wireless facilities and wireless support structures shall not be illuminated, except in order to comply with state or federal law, or unless illumination is integral to the camouflaging strategy such as a design intended to make them look like a street light pole.

s. Noise

The Applicant shall describe any cooling system that it plans to deploy. Only a passive cooling system will be allowed in a residential area. In the event that a fan is needed, the Grantee shall use a cooling fan with a low noise profile. The Grantee shall employ Personal Wireless Service Facilities that comply with any Town noise bylaw or other reasonable noise level requirement of the Town as is technically feasible and commercially practicable in light of industry standards and equipment specifications. In the event that its facilities fail to comply with such ordinance or requirement, the Grantee shall immediately take all steps necessary to correct such non-compliance, including providing such equipment that is reasonably necessary to bring the facilities into compliance with such ordinance or requirement. The Grantee shall promptly shut down and repair any equipment that is not in compliance.

t. Security.

Each installation shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight or attractive nuisances. The Applicant shall provide its written security standards and practices and a written explanation of its standards and practices to ensure adequate security for its Personal Wireless Service Facilities in accordance with current industry practices.

u. Vibration.

The Applicant shall demonstrate that it is capable of promptly shutting down and repairing any equipment that vibrates excessively.

v. Impact on Trees.

The Town discourages the installation of Personal Wireless Service Facilities within the dripline of a Public Shade Tree (as defined under Applicable Law) or other Town-owned tree. If there is no alternative to the installation of such facilities within the dripline of a Public Shade Tree or other Town owned tree the installing party must comply with G.L. c. 87, and/or the Town Trees ordinance in Chapter 221 of the Town Code and obtain a Tree Permit from the Tree Warden. The Town will not permit the pruning, cutting, or damage to a Public Shade Tree or other Town-owned tree to facilitate the installation of Personal

Wireless Service Facilities unless approved by the Tree Warden. Tree “topping” or the improper pruning of trees is prohibited. Any proposed as defined under Applicable Law) pruning or removal of trees, shrubs or other landscaping already existing in the Right of Way must be noted in the Application and must be approved by the Town Tree Warden.

w. Non-interference with other Users of Utility Pole or Other Existing Structure.

The Grantee and its facilities shall not interfere with the operation and maintenance of any wires, cables or equipment already attached to a Utility Pole or other existing Structure, including but not limited to streetlights and cable, electrical and telecommunications facilities (including any Town communications facilities such as fiber optic cables and copper alarm transmission lines). Signage already attached to a pole shall not be moved without the prior written consent of the Town department that controls the placement of the signage.

x. Fire Safety Measures and Requirements.

The Applicant shall include in its Application a written explanation of all fire safety measures that it will implement. Such measures may include, but are not limited to, the automatic or other means of shut off of electric power to the Personal Wireless Service Facilities, training of employees and contractors, the provision of information as may be requested by the Fire Chief or designee, the provision of emergency contact information to the Fire Chief or designee, proof of compliance with all applicable fire codes and pole owner requirements related to fire safety, and the use of setbacks from buildings.

y. Electric Power Meters.

The Applicant shall state whether the use of an electric power meter is required by the electric distribution company or if a non-metered rate is available. If a non-metered rate is available, the Applicant shall utilize a non-metered rate in order to reduce visual clutter and reduce the risk of vandalism at the proposed location. The Applicant is not required to request that the electric distribution company enter into a special contract for the provision of an unmetered rate.

z. Radio Frequency Emissions; Power Densities.

i. In accordance with federal law, the Town shall not regulate the placement, construction, and modification of Personal Wireless Service Facilities on the basis of the environmental effects of radio frequency emissions (“RFE”) to the extent that such facilities comply with the FCC’s regulations concerning such emissions. As part of its Application, the Applicant shall provide a certification by a qualified radio frequency engineer that the proposed facility will comply with such FCC regulations.

ii. A Grantee shall submit within ninety (90) days after beginning operations under a Grant of Location an independent engineering report that demonstrates whether its Personal Wireless Service Facilities are in compliance with the FCC’s RFE regulations. The report shall consider whether cumulative RFE are present. Thereafter, annual RFE

monitoring is required for all sites by an independent radio frequency engineer to be hired by the Grantee at the Grantee's expense. Test results will be submitted to the Town Department of Public Works as soon as available, but not later than the close of the calendar year. Annual testing of RFE shall be required to ensure continual compliance with the FCC RFE regulations, including aggregate emissions requirements. In the event that FCC RFE limits are exceeded based upon annual RFE monitoring, the Grantee shall bring the Personal Wireless Service Facilities into compliance as soon as practicable, but in no case later than thirty (30) days after receipt of the above test results, and certify such compliance to the Town, or, at the Grantee's election, Grantee shall shut down the operation of the Personal Wireless Service Facilities within thirty (30) days of receipt of such test results. The failure to comply with these requirements shall result in the termination or modification of the Grant of Location.

iii. In addition, for each Personal Wireless Service Facilities location, the Town shall have the right, but not the obligation, to employ a qualified independent radio frequency engineer to conduct random and unannounced tests of the Grantee's Personal Wireless Service Facilities installations located within the Town to certify their compliance with all FCC RFE regulations as they apply to exposure of the general public. The cost of such tests shall be paid by the Town, provided that if any such test establishes that the Personal Wireless Service Facilities are not in compliance with such FCC RFE regulations, the Town shall provide the test results to the Grantee, and Grantee shall pay the costs of such test. In the event that FCC RFE limits are exceeded, based upon such tests, the Town shall provide the test results to the FCC and request its review of RFE for compliance with its RFE regulations. The Grantee shall bring the Personal Wireless Service Facilities into compliance as soon as practicable, but in no case later than thirty (30) days after receipt of such test results, and certify such compliance to the Town, or, at Grantee's election, Grantee shall shut down the operation of the Personal Wireless Service Facilities within thirty (30) days of receipt of such test results. The failure to comply with these requirements shall result in the termination or modification of the grant of location.

aa. Back-up Generators.

Backup generators shall only be operated during power outages and for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m. Back-up generators shall be portable.

PEDESTRIAN PATH AND AMENITY ZONE

a. The sidewalk area of public space is typically delineated into the pedestrian path and the amenity zone. The amenity zone is located between the pedestrian path and the roadway and provides access between the two as well as the area for street trees, streetlights and traffic signals, and other functional elements. It is critical that all pedestrian paths are clear to facilitate safe and optimal access and circulation along sidewalks.

- b. Standalone poles shall not be located in the clear pedestrian path
- c. Standalone poles shall be aligned with existing streetlights, third party poles, and street trees as applicable in order to maintain a visual and physical organization of structures within the Public Way, as measured from the center of the base of the pole. When streetlight and street tree alignment are offset within the amenity or curbside zones, prioritize alignment of the small cell facility with streetlights.
- d. All measurements shall be taken from the outer edge of the standalone pole and the infrastructure listed in the following specific limits/prohibitions.
- e. Standalone poles must be placed a minimum of ten feet (10') from existing fire hydrants or buildings' fire connections.
- f. Standalone poles shall be located a minimum of 10 feet (10') from light poles and traffic signal poles.
- g. Standalone poles shall be located a minimum of 3 feet (3') from bicycle racks and shall not impede the attachment of bicycles.
- h. Standalone poles shall be placed a minimum of ten feet (10') from any above grade building face, including bay windows, show windows and building projections or overhangs.
- i. Poles should be located, to the maximum extent possible, to minimize impact on businesses and residential mixed-use development by avoiding placement directly in front of building entrances, alignment with windows, primary entry walks, or delivery zones or entrances.



ACCESS, CIRCULATION AND SIGHT DISTANCES

- a. Safe and functional access, circulation, and clear sight lines are important for pedestrian ease of movement and to maintain unobstructed line of sight among drivers, pedestrians, bicyclists.
- b. Standalone poles shall not obstruct ADA access, including maintaining a clear landing at the top of curb ramps at crosswalks.
- c. Pole placement shall not impede, obstruct, violate, conflict with, or hinder any mode of travel over or access to any public street, bridge, tunnel, highway, lane, path, alley, sidewalk, or driveway, including but not limited to the obstruction of sight lines.
- d. Poles shall be placed consistent with the most current Manual on Uniform Traffic Control Devices and adopted District standards for maintenance of an intersection's sight line triangles.
- e. A minimum of fifteen feet (15') shall be maintained between the pole and the outside edge of the alley or driveway.

STANDARD CONDITIONS

Each Grant of Location order shall be subject to the following Standard Conditions, which shall be incorporated by reference in a Grant of location order:

ANNUAL RE-CERTIFICATION AND AFFIDAVIT

- a. Each year on July 1 the party responsible for the equipment maintenance shall submit an affidavit which shall list, by location, all small cell wireless installations it maintains within the Town of Andover by location, and shall certify: (1) each such installation that remains in use; (2) that such in use installations remain covered by insurance, as required under the Policy; and (3) each such installation which is no longer in use.
- b. The party responsible for the equipment maintenance shall pay an annual re-certification fee for each installation which remains in use. Such fee shall be covered by the \$270 per location annual fee unless the Town has adopted a different fee schedule.
- c. Any small cell wireless installation which is no longer in use shall be removed by the party responsible for its maintenance within sixty (60) days of receipt of the annual re-certification affidavit, at that party's expense.
- d. Any small cell wireless installation which is not removed within sixty (60) days after being listed as no longer in use in the annual re-certification affidavit shall be subject to removal by the Town at the expense of the Grantee.

- e. Where such annual re-certification has not been timely submitted, or equipment no longer in use has not been removed within the required sixty (60) day period, the Select Board may notify the Grantee of its intent to revoke the grant of location and direct the removal of any unused Personal Wireless Services Facilities by or at the expense of the Grantee.

EXPIRATION OF PERMIT FOR NON-USE

If the Grantee fails to construct and operate the approved Personal Wireless Service Facilities within one hundred eighty (180) days after such acceptance, the Town may notify the Grantee of its intent to revoke the grant of location and direct the removal of any unused Personal Wireless Services Facilities. Within one hundred eighty (180) days of the date of such notice, the Grantee shall have the opportunity to cure this failure or provide good cause for the failure based upon factors outside of its control.

ABANDONMENT AND REMOVAL

Any Personal Wireless Service Facilities that are not operated or used for Personal Wireless Services for a period of one hundred eighty (180) consecutive days or more shall be deemed abandoned. The Town shall have the right to notify the Grantee that such abandoned facilities must be removed within thirty (30) days of the date of such notice. At the time of removal, the Personal Wireless Service Facilities and all associated debris shall be removed. If the Grantee does not comply with a removal notice, the Town shall have the right to remove the Personal Wireless Service Facilities at the expense of the Grantee.

NON-EMERGENCY REPAIRS

Non-emergency repairs shall be performed as follows: (1) at least forty-eight (48) hours' advance notice shall be provided to the Director of Public Works and the Police Department; (2) a police detail may be required at the sole cost and expense of the Grantee; and (3) work shall be performed on weekdays during hours designated by the Director of Public Works.

MAINTENANCE OF PERSONAL WIRELESS SERVICE FACILITIES

All equipment and other improvements to be constructed, installed, operated and maintained shall be maintained in a manner that is not detrimental or injurious to public health and safety and general welfare and in a manner that ensures that the aesthetic appearance of Personal Wireless Service Facilities is continuously preserved and substantially the same as shown in the approved plans. The Town shall have the right, but not the obligation, to periodically inspect the installed Personal Wireless Service Facilities and may include the reasonable cost of such inspections in publicly established annual recurring charges applicable to such facilities.

REMOVAL OF UTILITY POLE

In the event that a Utility Pole is being removed and replaced by the pole owner(s), the Grantee shall transfer the Personal Wireless Service Facilities to the replacement pole in accordance with the pole attachment agreement(s) between the Grantee and the pole owner(s). In the event a pole

is not a double pole, and the pole owner no longer needs the pole for its own use and is proposing to remove the pole and not replace it, the Grantee shall have the right to remain on the pole pursuant to its Grant of Location, but shall reasonably cooperate in moving its equipment to another available and technically suitable pole if one is available and approved for the attachment of its Personal Wireless Service Facilities and the Grant of Location allowed for the removed pole location shall terminate.

LICENSES AND PERMITS

The Permittee must obtain all other permits required by law. A Grant of Location is subject to this condition.

PERFORMANCE BOND

- a. The Grantee shall maintain at its sole cost and expense a performance bond running to the Town, with good and sufficient surety licensed to do business in the Commonwealth of Massachusetts in the sum of Ten thousand dollars(\$10,000) for each location. Said bond shall be conditioned upon the faithful performance and discharge of all obligations of the Permittee under its Grant of Location. It is intended that the bond be adequate to cover the cost of removal of Grantee's facilities and any necessary site restoration. The amount of the performance bond is subject to change based on changes in estimated costs and any change will be posted publicly and made available by the Board.
- b. The performance bond shall remain effective during the period in which the Grant of Location is in effect as well as through the time of removal of all of the Grantee's Personal Wireless Service Facilities provided for in the Grant of Location, and shall be conditioned that in the event that the Permittee shall fail to comply with any one or more of its obligations, the Town shall recover from the surety of such bond all damages suffered by the Town as a result thereof.
- c. Said bond shall be a continuing obligation under a Grant of Location. In the event that the Town recovers from said surety the Grantee shall take immediate steps to reinstate the performance bond to the appropriate amount required above. Neither a performance bond accepted by the Town, nor any damages recovered thereunder, shall limit the liability of the Grantee.

INDEMNIFICATION

To the fullest extent permitted by law, the Grantee shall, at its sole cost and expense, indemnify, defend, and save harmless the Town and all of the Town's officers, agents and employees from and against all suits and claims of liability of every name and nature, including attorney's fees and costs of defending any action or claim, for or on account of any claim, loss, liability or personal injury or death or damage to property of the Town or any person, firm, corporation or association related to, arising out of or resulting from any act, omission, or negligence of the Grantee, its officers, agents, representatives, employees, permittees, licensees, guests and invitees, or by its contractors and their officers, agents, representatives, employees, permittees, licensees, guests and invitees related to, arising out of or resulting from the construction,

installation, maintenance, operation and/or removal of Personal Wireless Facilities under a Grant of Location from, and any related license agreement with, the Town, and/or its/their failure to comply with the terms and conditions of the Grant of Location and/or any related license agreement, except to the extent such claims were caused by the Town's gross negligence or willful misconduct. Such claims shall include, but not be limited to, claims arising from the release or threat of release of oil or hazardous materials, substances or wastes, or assessing, containing, removing, or disposing of the same, claims arising from Radio Frequency Emissions and claims arising from the Grantee's failure to provide adequate safety and security at the location of its activities authorized by the Grant of Location and any related license agreement. These indemnification provisions are independent of, and shall not be deemed to be limited, released, waived or modified in any respect by reason of, any surety or insurance provided by the Grantee pursuant to the Grant of Location or any related license agreement with the Town. These indemnification provisions shall survive the expiration or termination of the Grant of Location and any related license agreement.

INSURANCE

At its sole cost and expense, the Grantee shall carry insurance at minimum in the types and amounts as described in this section:

a. **Commercial General or Public Liability Insurance.**

Grantee shall carry appropriate commercial general or public liability insurance which shall include coverage for bodily injury and personal injuries as to third persons based upon the uses and equipment placed on or at the location(s) on which Personal Wireless Service Facilities, including related Structures, will be installed or constructed ("Location(s)") in the minimum amount of One Million Dollars (\$1,000,000) per occurrence and a minimum of Two Million Dollars (\$2,000,000) in the aggregate, or such higher amounts of insurance coverage that are prudent given the risks inherent in the Grantee's activities on and use of the Location(s) or that the Town shall reasonably require from time to time. This insurance must be primary and non-contributory with respect to the losses for which the Grantee is responsible.

b. **Insurance for Town Property.**

The Grantee shall obtain and furnish proof of sufficient property damage (fire, vandalism, structure, etc.) insurance for Town property, i.e., any Town-owned Infrastructure, equipment, or other property at, on or within the Location(s), in at least the minimum amount of One Million Dollars (\$1,000,000) per occurrence and a minimum of Two Million Dollars (\$2,000,000) in the aggregate or such higher amounts of liability insurance coverage that are prudent given the risks inherent in the Grantee's activities and use of the Location(s). This insurance must be primary and non-contributory.

c. **Fire and Casualty Insurance.**

The Grantee shall carry fire and casualty or “all risk” liability insurance for its own equipment in amounts that are prudent given the risks inherent in the Grantee’s activities and use of the Location(s). This insurance must be primary and non-contributory.

d. Workers’ Compensation.

The Grantee and its contractors shall also provide evidence of sufficient Workers’ Compensation insurance as required by Massachusetts law.

e. Additional insurance.

The Grantee should consider obtaining any additional insurance to cover its risks inherent in its activities on and use of the Location(s), including, but not limited to, Professional Services, Motor Vehicle, Construction/Completed Operations, Vandalism, Terrorism, Flood, Wind, Hail, etc.

f. The Grantee must purchase a notice endorsement such that the Town is provided no less than thirty (30) days’ prior notice of cancellation for non-payment reasons and no less than ten (10) days’ prior notice for cancellation for payment reasons. The Grantee shall also obtain an endorsement for each location explicitly naming the “Town of Andover” as an additional insured on all applicable policies except Workers’ Compensation. Such endorsements shall be evident on any certificates of insurance provided to the Town and may be submitted by e-mail.

g. The Grantee shall furnish to the Town Certificates of Insurance and proof of the required endorsements issued by an insurer or insurers qualified to do business in Massachusetts with an A.M. Best rating of no less than A, Class VI or higher or an equivalent Standard & Poor’s Rating of AA+/- or higher upon the issuance of a Grant of Location and the execution of any related license agreement and updated annually during the term of the Grant of Location and License. The Grantee shall provide such Certificates of Insurance and proof of required endorsements to the Town office designated in the Grant of Location. The Town shall have the right to review the Grantee’s required insurance policies.

h. Such insurance coverage shall commence no later than the date on which construction of Personal Wireless Service Facilities is commenced. Failure to maintain such insurance during the period in which the Grant of Location and any related license agreement is in effect shall be grounds for revocation of such Grant of Location and license agreement.

AS-BUILT DRAWINGS

The Grantee shall submit as-built drawings to the Town within thirty (30) days after installation of its Personal Wireless Service Facilities. As-built drawings shall be in an electronic format acceptable to the Town which can be linked to the Town’s Geographic Information System

(GIS). To the extent practicable, as-built drawings should be able to be incorporated into the GIS layers.

CONSTRUCTION IN COMPLIANCE WITH APPROVED PLANS

The Grantee shall construct, operate and maintain the Personal Wireless Service Facilities in strict compliance with the plans approved and incorporated in its Grant of Location order. Such compliance shall be subject to annual certification by the Grantee and review by the Town.

CURRENT CONTACT AND SITE INFORMATION

The Grantee shall submit with its Application and at all times maintain current basic contact and site information on a form to be supplied by the Town Clerk's Office. Such information shall include, but is not limited to: (a) name, address, email address and twenty-four (24) hour local or toll-free and cellphone numbers of the Grantee, the owner, operator and agent or person responsible for maintenance of the Personal Wireless Service Facilities; (b) the owner of the Personal Wireless Service Facilities; and (c) emergency contacts in the event of emergency situations. Notice of any change in contact information shall be provided within three (3) days of the effective date of such change. Notice of any change in name of the Grantee shall be provided to the Town Clerk's Office and any signage, insurance and bonds shall be updated concurrent with the date of the name change.

RELOCATION

A Grantee shall promptly remove and relocate, at no charge to the Town, any facilities or equipment if the removal of a Utility Pole or Structure is made necessary by a change in the grade, alignment or width of any public way, or by construction, maintenance or operation of any Town facilities.

DIG SAFE; NJUNS

The Grantee shall comply with all applicable Dig Safe statutes and regulations. The Grantee shall join the National Joint Utilities Notification System ("NJUNS") and participate in the double poles removal process in accordance with NJUNS practices. It shall provide the Town Clerk's Office and the Department of Public Works with proof of its joining NJUNS. In the event that the Town requests periodic meetings with pole owners and attaching entities, the Grantee shall have a representative attend or participate virtually.

ASSIGNMENT

The Grant of Location shall not be assigned by the Grantee without the prior express written consent of the Select Board.

STREETSCAPE REDESIGN

If a streetscape is redesigned in the future, including, but not limited to the location and type of streetlights, a Grantee will be required to remove its facilities at its own cost and apply to reinstall its facilities in accordance with this Policy and the new streetscape.

AMENDMENTS TO POLICY

This Policy may from time to time be amended by the Select Board in accordance with Applicable Law.

SEVERABILITY

The provisions of this Policy are severable. In the event that any part of this Policy is declared invalid by a court of competent jurisdiction, the validity of the remaining parts of this Policy shall not be affected.

EFFECTIVE DATE

This Policy will be effective as of the 28th day of January, 2025.

This Policy may be modified from time to time by the Select Board.

Section XV. Select Board Policy Book – Chapters 1 – 3

1. Introduction to Select Board Governance, Practices & Procedure

Andover Select Board policies are bifurcated into two resources:

- 1) A handbook codifying general Select Board parameters, practices and procedures for its role in town governance; and
- 2) Detailed companion policies for subject matters within Select Board jurisdiction such as rules and regulations for licenses and permits governed by the Board.

This policy handbook serves as a reference for members of the Select Board, guidance for residents and employees, and a model set of policies and procedures for other boards, committees and commissions.

I. Governing Structure & Authority

The Select Board is comprised of a five-person elected body, with each member serving staggered, three-year terms. The Select Board as a collective body serves as the chief elected executive of the Town of Andover, deriving its authority and responsibilities from three primary sources:

- Massachusetts General Laws and Special Acts;¹
- Chapter 571 of the Acts of 1956: An Act Establishing a Selectmen-Town Manager Plan For The Town Of Andover alternately known as the “Town Charter” or the “Selectmen-Manager Act;” and
- Town of Andover Bylaws.

Within the Town Charter and the Town Bylaws, the Select Board holds many roles and responsibilities, especially as the chief policymaking body of the Town’s government. As set forth in the Town Charter:

¹ In addition to a wide variety of Commonwealth-wide statutes, more than 286 Special Acts specific to Andover further define town governance.

“The Select Board shall be the makers of policy of the town government, except as otherwise directed by statutes or by the town charter. The town manager shall be responsible for ensuring that the boards, officers and representatives of the town comply with policy determinations of the Select Board.” Andover Town Charter §1

The Select Board also appoints, evaluates, and works in partnership with the Town Manager who serves as the chief appointed executive officer of the Town. Among their duties enumerated in the Charter, the Manager supervises and directs and is responsible for the efficient administration of all offices, boards and committees. *See* Town Charter §10.

II. Select Board Authorities & Duties Enumerated

As charged and empowered by the General Laws, the Charter, and Town Bylaws, a non-exhaustive list of Select Board authorities and duties includes:

A. General Governance

Policymaking wherever authority has not been delegated to another officer, board or body;

Appointing, evaluating, and where necessary, removing a Town Manager, a Town Accountant, and the Zoning Board of Appeals;

Appointing a member of the Andover Contributory Retirement Board;

Creating *ad hoc* working groups and committees to advise the Board, and appointing members to study committee as required by state law;

and

Approving appropriate appointments of the Town Manager to boards and committees where required.

B. Town Meeting

Issuing Town Meeting warrants and setting the date for Town Meeting and Special Town Meetings;

Holding hearings and making recommendations on warrant articles including the Town budget; and

Pursuing Special Legislation in the Town’s interest.

C. Finance

Working collaboratively with the Finance Committee and the Town Manager to maintain the Town's financial policies, and review the Town Manager's annual recommended operating and capital budgets; and

Setting the tax rate and classification.

D. Public & Private Ways & Utilities

Promulgate traffic rules and orders for public ways, including parking;

Regulate utilities in the public ways as authorized and limited by the General Laws; and

Consider betterment applications relative to private ways and water and sewer improvements.

E. Licensing & Permitting

Serve as the Licensing Board responsible for issuing and renewing licenses and permits for the following non-exhaustive categories:

<i>Alcohol</i>	<i>Lodging houses/inn keeper</i>
<i>Automatic amusements</i>	<i>Public entertainment</i>
<i>Class I and II motor v vehicle</i>	<i>Outdoor dining & retail</i>
<i>Common victualler</i>	<i>Second hand/junk dealer</i>
<i>Contractor drain layer</i>	<i>Shooting galleries/ranges</i>
<i>Food vendor</i>	<i>Small cell wireless facilities</i>
<i>Hackney/taxi</i>	<i>Special events</i>

F. Statutory Commission Roles

The Board also possesses the duties and responsibilities of a Licensing Board, Cable Commission, Water & Sewer Commission, and Election Commission under the General Laws.

2. Select Board Code of Conduct

Acts of the Select Board are made as a single body comprised of five individuals with varied perspectives. As such, the Select Board strives to foster an environment of healthy, informed civil discourse for its members, residents, persons doing business before the Select Board, and Town staff, even in the presence of lively debate or passionate disagreement. At all times the Select Board endeavors to conduct itself as a whole in the most professional of manner. To that end, the Board adopts the following “Code of Conduct” for its members, and those appearing before the Select Board, modeled on the Massachusetts Interlocal Insurance Association and Massachusetts Municipal Association examples.

I. Purpose

These guidelines serve as the standard for achieving and maintaining a high level of public confidence, trust, and professional respect with regard to how the Town of Andover (the “Town”) and its officials conduct business. These guidelines are intended to define and create a centralized understanding with regard to standards of conduct.

The Select Board recognizes the importance of maintaining professional standards at all levels of the government, including for those who volunteer their time and services on behalf of the Town. The Select Board encourages other boards and committees of the Town who are not appointed by the Select Board to adopt these guidelines.

II. Applicability

These guidelines apply to the Select Board; to all other Town boards, commissions, and committees appointed by the Select Board or the Town Manager; and to all presiding officers, board members, commission members, committee members, public officials, and other representatives of the Town appointed by the Select Board, or Town Manager while acting in their official capacity or while acting on behalf of the Town and covers all of their actions and communications whether spoken or written including but not limited to all electronic communications including social media.

III. Code of Conduct

All Town elected and appointed officials are expected to act honestly, conscientiously, reasonably and in good faith at all times having regard to their responsibilities, the interests of the Town and the welfare of its residents.

The Town elected and appointed officials must refrain from communicating or acting in a disrespectful, abusive and/or threatening manner towards members of the community, other elected or appointed officials, the Town Manager/Administrator or Town Staff.

Moreover, all elected and appointed officials must fully comply with the Town's Anti-Harassment and Anti-Discrimination Policy.

Further, all elected and appointed officials of the Town must assume the following responsibilities:

All members of the Select Board and all other individuals listed above assume the following obligations and commitments:

A. Conduct Generally and in Relation to the Community

- Stay informed about the local and state duties of a board or committee member.
- Remember that you represent the Town at all times.
- Accept your position as a means of unselfish public service and do not attempt to benefit personally, professionally, or financially from your position.
- Recognize that the chief function of local government at all times is to serve the best interests of all of the people.
- Demonstrate respect for the public that you serve.
- Safeguard all confidential information, including, without limitation, privileged attorney-client communications.
- Seek no favors and understand that personal aggrandizement or profit secured by holding these positions is often dishonest and may be unlawful.
- Conduct yourself so as to maintain public confidence in our local government.
- Conduct official business in such a manner as to give the clear impression that you cannot be improperly influenced in the performance of your official duties.
- Unless specifically exempted (e.g., Executive Session), conduct the business of the public in a manner that promotes open and transparent government and maintains full compliance with the Open Meeting Law.
- Comply as fully as possible with all Town policies.
- Comply as fully as possible with all applicable laws, including, without limitation, the following:
 - The Open Meeting Law (G. L. c. 30A, §§ 18-25)
 - Procurement Laws (G. L. c. 30B)

- The Ethics/Conflict of Interest Statute (G. L. c. 268A)
- The Public Records Law (G.L. c. 66, § 10).

B. Conduct in Relation to Your Fellow Board/Commission/Committee Members

- Treat all members of the board/commission/committee with respect despite differences of opinion; professional respect does not preclude honest differences of opinion but requires respect within those differences.
- Recognize your responsibility to attend all meetings to assure a quorum and promptly notify the chair should you for any reason be absent from a given meeting or be unable or unwilling to continue to serve. Formal notice to resign from a Board requires written notification to the Town Clerk.
- Recognize that action at official legal meetings is binding and that you alone cannot bind the Board outside of such meetings.
- Refrain from making statements or promises as to how you will vote on quasi-judicial matters that will come before the Board until you have had an opportunity to hear the pros and cons of the issue during a public meeting.
- Uphold the intent of executive session and respect the privileged communication that exists in executive session.
- Make decisions only after all applicable facts have been presented and discussed at a Board meeting.

C. Conduct in Relation to the Town Manager

- Recognize and support the administrative chain of command and refuse to commit the Town to a course of action on complaints as an individual Board member outside the administration.
- Give the Town Manager full responsibility for making and implementing their decisions.
- Refrain from giving orders or directions to the Town Manager for action as an individual Select Board member.
- Refrain from providing information to the Town Manager that you would not be willing to share with other Board members.

D. Conduct in Relation to Town Staff

- Treat all staff as professionals and respect the abilities, experience, and dignity of each.
- Refrain from giving individual instructions to, or individually requesting work be performed by Town personnel but rather channel directives and requests of substance through the full board and/or the Town Manager and endeavor to apprise the Town Manager of any requests to Town staff.
- Direct questions about Town staff or requests for additional background information to the Town Manager.
- Avoid publicly criticizing an individual employee; only raise concerns about staff performance to the Town Manager through private communication.

IV. Guidelines for Individuals Speaking at Public Meetings

- The chair of the public body is responsible for conducting all public meetings in an orderly and peaceable manner.
- The public body may allow a public comment session during the open session of a public meeting. If a public comment period is posted on the meeting agenda, the session will last for no more than fifteen minutes, subject to the discretion of the Chair. Each speaker during the public comment session shall be limited to a maximum of three minutes.
- Members of the public may speak only with the permission of the chair. To maintain an orderly and peaceable meeting, all speakers must identify themselves by name and address prior to speaking.
- All remarks shall be addressed to or through the chair or to the public body as a whole. Matters presented by speakers during a public comment session will not be debated or acted upon by the public body at the time they are presented.
- All persons addressing the public body must conduct themselves in a peaceable and orderly manner. Such persons may not make threats of violence or incite imminent lawless conduct by others. Additionally, speakers are encouraged to refrain from making any personal, impertinent, unduly repetitive, slanderous, or profane remarks. Speakers are further

encouraged to respect the views and opinions of others (including members of the public body and the general public) and to treat others as the speaker wishes to be treated.

- Individuals in attendance at a public meeting may not interrupt recognized speakers or members of the public body. Further, such individuals are encouraged to refrain from engaging in disorderly or boisterous conduct, including the utterance of loud, threatening, or abusive language; whistling; stamping of feet; or other acts which disrupt or otherwise impede the orderly conduct of any meeting.
- If any person disrupts the proceedings of a meeting, the chair shall give the person a clear warning to cease such disruption. If, after a clear warning, the person continues to be disruptive, the chair may order the person to withdraw. If the person so ordered fails to withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.
- Whenever the public is allowed to participate in remote public meetings, the same rules and guidelines that apply to in-person meetings apply to their remote counterparts.
- Comments made during public comment sessions do not reflect the views or the positions of the public body before which the member of the public is speaking. Because of constitutional free speech principles, public bodies do not have the authority to prevent or limit all speech that may be upsetting or offensive during such sessions.

V. Distribution & Education

- The Town Clerk shall provide a copy of these guidelines to all members upon its issuance and upon the subsequent appointment or re-appointment of any member.
- The Town Clerk shall maintain and distribute educational materials from the State Ethics Commission to members.
- The Town Clerk shall develop a schedule of training programs to educate the Board and members on the Conflict-of-Interest Law and ensure compliance with said Law.

- The Town Clerk shall educate the Board, members, and officials on the Conflict-of-Interest Law and ensure compliance with annual state mandated on-line training.

3. Board Meetings & Hearing Procedures

In the interests of government transparency and compliance with the Open Meeting Law, meetings and hearings are the primary manner in which the Board discharges its duties. This section outlines significant policies and practices of the Board in arranging and conducting those meetings and hearings.

I. Notice of Meetings & Agendas

The Chair is responsible for developing agendas in concert with the Town Manager's Office and filing appropriate public notice of any Board meeting or hearing with the Town Clerk at least 48 hours in advance, excluding Saturdays, Sundays and Legal Holidays. Members of the Board may request agenda items directly through the Chair, while members of the public and Town staff may make requests through the Chair or the Manager for the Chair's consideration. By default, the Chair has discretion to determine which items are on the agenda. However, the Board may by a majority vote request an item on a future agenda at a duly posted public meeting.

Notices shall each contain the following:

- Date and time of meeting;
- Place (including virtual or online spaces as permitted) of meeting; and
- A list of topics the Chair reasonably anticipates to be discussed at the meeting or hearing in a format reasonably conforming to the Sample Agenda attached in Appendix Section A-1

II. Schedule & Location

Unless otherwise set forth on meeting notices, regular meetings of the Board held on Monday evenings at 7:00 p.m. until the conclusion of all business or the Board moves to table business and adjourn. The location of meetings unless otherwise specified in notices is in the Select Board Room on the third floor of the Town Offices. Additional meetings are scheduled as needed by the Board. The Board shall not meet on days designated as legal holidays or election days. Meetings falling on a legal

holiday or election days are cancelled or rescheduled for another date at the discretion of the Board.

A. Hearings & Special Meetings

Hearings (often conducted within regular meetings) and special meetings of the Board may be scheduled either at the discretion of the Board regarding any matter within their jurisdiction, or as required by a license or permit application. Any special hearings or meetings follow the normal notice procedures absent an emergency, or pertinent provisions of law setting forth additional notice requirements beyond the Open Meeting Law (such as formal legal notices in advance of public hearings).

While public comment in regular meetings is afforded at the discretion of the Chair, public comment at legal hearings is afforded by right through oral or written testimony to the Board. Interested parties and members of the public are reminded that the purpose of testimony is to inform the Board for the purposes of rendering a decision. Persons testifying before the Board in hearings are respectfully referred to the Select Board's Code of Conduct Policy at Section 2(IV) ("Guidelines for Individuals Speaking at Public Meetings") for further information.

B. Emergency Meetings

An "Emergency Meeting" is defined by law as a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. Emergency meetings of the Board may be called by the Chair consistent with the requirements of the Open Meeting Law, which allows a meeting in special circumstances even though no notice was previously posted.

In the unusual circumstance where an emergency meeting is warranted, a notice should be posted at the earliest possible juncture; all Board members must be notified by the Chair or their designee; and a majority of Board Members must agree to convene an emergency meeting.

C. Notification of Interested Parties

The Town Manager and Town Clerk's Office shall coordinate to notify persons who are directly involved in the issues to be discussed by the Select Board.

D. Meeting and Hearing Procedures

Meetings are to be conducted in accordance with generally accepted rules of parliamentary procedure. It is the Board's practice that application of such procedure be on a relatively informal basis, due to the size of the group and the desirability of flexibility in the expression of opinion. Robert's Rule of Order is used as a guide in matters requiring clarification or definition. The Board may by majority vote suspend

these rules or any Board policy as circumstances requires so long as it conducts itself in compliance with applicable state and federal laws.

A quorum shall consist of three members of the Board. As a practical courtesy, action on critical or controversial matters, the adoption of policies or the making of critical appointments shall be taken whenever practicable only when the full Board is in attendance. Actions and decisions shall be by motion, second and vote. Split vote will be identified by name.

E. Remote Participation

The Board approves the use of remote participation by Members of the Board within the bounds allowed by the Open Meeting Law. Members are encouraged to participate remotely whenever in-person attendance is not feasible. All votes taken when any Select Board participates remotely shall be conducted by roll call vote.

To the extent permitted by law, the Board will hold meetings remotely for both Members and the public in only those circumstances which merit remote participation by a quorum of the Board or a majority of those persons having business before the Board on a time-sensitive agenda item or items.

F. Resident Participation

Outside of public hearings, resident participation at Board meetings is provided at the discretion of the Chair. A "Public Comment" period is typically held at each regular meeting of the Board to hear concerns of the general public. Under either agenda items or Public Comment, residents are referred to the Board's Code of Conduct policy section 2(IV)(" IV.Guidelines for Individuals Speaking at Public Meetings") for more information.

G. Public Recording of Meetings

Select Board meetings are broadcast and recorded by Andover TV, Inc. wherever practicable, which provides the public free access to such recordings. Personal audio and video recordings of meetings by members of the public are also permitted under the Open Meeting so long as such recording does not interfere with the conduct of the meeting. By law, the Chair must be notified by any member of the public of their intention to record a meeting before the meeting commences, and the Chair must in turn inform the attendees that the meeting is being recorded.

H. Executive Session

The Board may convene in executive session for only those purposes enumerated in the Open Meeting Law only after convening in open session, stating the reason(s) for

entering executive session, conducting a successful roll call vote, and advising the public whether or not it will return to open session.

Once in executive session, all votes are conducted by roll call vote, minutes of executive sessions must be kept, and periodically reviewed to determine if they are ripe for release because the purpose of an executive session is no longer served by keeping such minutes confidential.

I. Minutes

The Board shall maintain accurate minutes of its proceedings, including all exhibits used and ensure their timely release. Minutes need not constitute a transcript or contain every remark by Members, staff, or the public. Rather, minutes should be sufficiently detailed for a person not present at a meeting to understand what actions were taken by the Board and how members of the Board voted with a summary of the discussion leading to such vote and action.

APPENDIX

- XV.1 Town Safety Policy**
- XV.2 ADA Policy**
- XV.3 Sexual Harassment Policy**
- XV.4 Affirmative Action Policy**
- XV.5 Anti Fraud Policy**

XV.1. Town of Andover Safety Policy

It is the policy of the Town of Andover that every employee is entitled to work under the safest possible conditions in the many occupations that we represent. To this end, every reasonable effort will be made to provide and maintain a safe and healthy workplace, safe equipment, proper materials and to establish and require safe work practices at all times.

Accidents that injure people, damage machinery or equipment, and destroy materials or property cause needless suffering, inconvenience and expense.

Our Executive Safety Committee Advisor is Elaine Shola. She will be personally involved in seeing to it that all department heads and supervisory personnel carry out their delegated responsibilities in the area of employee safety.

The Executive Safety Committee will maintain an active role in promoting employee safety. All accidents must be reported immediately. All accidents/claims will be thoroughly investigated using the "Supervisor's Report of Accident" forms. The investigation should be conducted by the most immediate available supervisor of the injured worker. The responsibility of Department heads will be to make sure that the accident investigations are complete and that emphasis is placed on finding ways to prevent future injuries through this effort.

It is the basic responsibility of each employee to make safety a part of his/her daily concern. You are obligated to observe the rules of conduct and safety, and to properly use any safety equipment provided.

Employees are our most important assets. Your safety is our greatest responsibility. We appreciate your full cooperation in making this policy effective.

Reginald S. Stapczynski
Town Manager

Claudia L. Bach
Superintendent of Schools

Date: _____

Date: _____

**Town of Andover
Andover Public Schools
36 Bartlet Street
Andover, MA 01810**

XV.2. Non-Discrimination on the Basis of Disability Policy and Procedures

Statement of Commitment
ADA Policy

The Town of Andover including the Andover Public Schools does not discriminate on the basis of disability in any employment-related areas, nor in the admission or access to its services, programs, or activities. It is Town's policy that no individuals, solely by reason of their disability, be excluded from the opportunity to participate in, or reap the benefits of, programs and services offered by the Town of Andover. Qualified individuals with disabilities will be afforded equal opportunity to participate as members of planning or advisory boards, commissions, or any other entity of local government.

To assure the provision of the above, the Town of Andover has appointed an Americans with Disabilities Act Coordinator and an ADA Action Committee, composed from representatives of the Department of Human Resources, the Andover Public Schools, and the Department of Plant and Facilities. Its role is to oversee the Town of Andover's implementation and adherence to the Americans with Disabilities Act. The ADA Coordinator will conduct periodic reviews of both the Town's written policies and actual operating practices. The Town of Andover will strive to provide appropriate services, accessible programs, and the placement of disabled people in its workforce.

Reginald S. Stapczynski, Town Manager

Date

Claudia L. Bach, Superintendent of Schools

Date

Americans with Disabilities Act (ADA) Coordinator

The Director of Human Resources of the Town of Andover is the appointed official serving as the Coordinator of Americans with Disabilities Act (ADA) issues. The coordinator has the authority and knowledge to implement this policy and the regulations effectively. **See Resource List.**

The Coordinator's role is to:

- Plan and coordinate the Town's overall compliance efforts;
- Receive and investigate complaints concerning issues related to the ADA, access to programs and services, or employment practices;
- Provide technical guidance to Department Heads or identify experts or agencies that able to do so;
- Provide information and awareness training to supervisors and employees;
- Working with the ADA Action Committee to ensure efforts are made to comply with the act;

Disability Commission

The Andover Disability Commission consists of seven (7) members appointed and approved by the governing body of the Town of Andover. The majority of the members, as required by law, are disabled, although one may be a family member of a disabled person. One of the members of the Commission is an elected or appointed official of the town. **See Resource List.**

Primarily the Commission works to ensure that programs and activities are effectively designed to integrate people with disabilities into the community, however the specific activities of the Commission depend on the needs of the disabled community.

The Disability Commission will hold at least six (6) meetings each year and maintain records maintained of such meetings. An annual report must be filed with the Town Manager by December 31.

ADA Grievance Procedure

This grievance procedure has been established to provide prompt and equitable resolution at the local level to complaints arising under the requirements of this policy and the Americans with Disabilities Act. This procedure refers to complaints and grievances on the part of employees, students, citizens, and members of the public alleging discrimination on the basis of disability.

The complainant is urged to follow these guidelines when notifying the Town of the alleged violation.

Step 1: A complainant may file the complaint orally to a town or school official, but is encouraged to file the complaint in writing. The complaint should contain the name and address of the complainant and should provide as much detail as possible concerning the alleged violation and the remedy the complainant is seeking. Complainants are encouraged to file their complaint as soon as possible but in any case, no later than sixty (60) calendar days after the violation is said to have occurred.

Complaints filed within the Andover Public Schools or Town government may be filed with a school administrator or town official. These officials must, in turn, notify the ADA Coordinator within 48 hours of the complaint.

Step 2: Within fifteen (15) calendar days after receipt of a complaint, the ADA Coordinator will conduct an investigation of the complaint, including holding a meeting with the complainant.

Within fifteen (15) days after the investigation is complete, the ADA Coordinator will issue a written disposition of the complaint. The ADA Coordinator will include the Town's position and offer, if possible, options for resolution of the complaint.

Step 3: If the complainant is not satisfied with the response, he/she may appeal the decision within fifteen (15) days to the Town Manager or the Superintendent of Schools. Within fifteen (15) calendar days of receipt of appeal, the Town Manager or the Superintendent of Schools will convene the ADA Action Committee and reconsider the merits of the case. The Town Manager or the Superintendent of Schools will be responsible for notifying the complainant of the disposition of the appeal within fifteen (15) calendar days from the date of the meeting.

Records will be maintained in the office of the ADA Coordinator of all complaints and grievances for a minimum of three years.

Individuals always have the legal right to file a complaint independent of this process with the Equal Employment Opportunity Commission, the Massachusetts Commission Against Discrimination, or any other agency they choose. **See Resource List for information and a sample complaint form.**

Communications

Effective communications of the provisions of this policy and all other information intended for public dissemination is one of the formal requirements of the Americans with Disabilities *Act*. In that some people of the community have seeing, hearing, or speaking impairments, it becomes the responsibility of the sponsoring authority to take whatever measures are necessary to make the relevant information accessible.

To accomplish this requirement, the following steps have been taken:

- a. **Assistive Listening Devices**: The Town has purchased portable assistive listening devices, and upon request, they are available for public meetings. For more information, please contact the ADA Coordinator.
- b. **Alternate Formats**: Alternate formats including large format, audio or videotape, or computer disk can be made available upon request. Such requests should be made within a reasonable time of afford compliance.
All notices announcing public meetings will include information about how attendees can request special accommodations to compensate for their disability. Such inquiries should be made to the ADA Coordinator.
- c. **TV Captioning**: Television captioning for locally originated programming is available.
- d. **Teletype (TTY)**: communications including relay operation are available in the Elder Services and Human Resources Departments and the Andover Police Department.

Reasonable Accommodation Policy

Reasonable accommodation is a modification or an adjustment to a job, the work environment or facility, that enables a properly qualified individual with a disability to perform essential job functions or benefit from programs or facilities made available to the public.

Upon request, effort will be made to make reasonable accommodations to the physical and/or mental limitations of a person with a disability, unless it can be demonstrated that such an accommodation would impose an undue financial hardship or fundamentally alter the nature of a program. It is the policy of the Town of Andover that the decision about undue financial and administrative burdens will be made by the ADA Coordinator, in consultation with the ADA Action Committee.

Integrated Services Assurance

A key element of this policy is to ensure that services of all types be provided in the most integrated settings appropriate. Although it is permissible to conduct separate programs, these should not substitute for access to integrated programs and it is important that people with disabilities not be required to participate in separate programs when reasonable accommodations can be made.

Training Assurance Regarding Non-discriminatory Practices

It is the policy of the Town of Andover that staff training and development activities include, on a regular basis, information about ADA requirements and that these programs operate in such a

manner that does not discriminate against people with disabilities. Such programs should include a full explanation of ADA policies, procedures, and practices.

Significant Assistance Assurance

Programs for which the town provides significant financial support will not discriminate against people with disabilities.

Assurance Regarding Surcharges

The Town of Andover will not impose surcharges on people with disabilities for the provision of program modifications, access improvements, or communications aids.

Transportation

All contracted transportation services provided by the Town to transport seniors, school children, the Andover Youth Council, or other participants in special programs, will attempt to provide to accommodations for people with disabilities.

Individuals needing accessible transportation should make their requests for such accommodations within a reasonable period of time in advance of a program or event. Should the Town not be able to provide accommodation, reasonable notice will be given.

Emergency Services

At this time, the Andover Police and Fire Department Offices have limited accessibility. Modifications to the existing facility or a new headquarters building are being considered. To compensate for this, reasonable accommodations have been made whereby a member of the Fire Department maintains a desk in the Community Development Office, which is accessible Monday through Friday from 8:30 A.M. to 10:30 A.M. for issuing permits and for conducting other routine business.

Members of both the Police and Fire Departments are thoroughly trained to deal with the special problems that may arise when conducting routine or emergency duties with members of the disabled community. A Teletype (TTY) telephone instrument is located at the police duty desk and is manned continuously. This instrument enables people with speech or hearing disabilities, using TTY instruments from their location, to communicate routine or emergency information to the town authorities.

A second TTY is located at the police duty desk which is solely for the purpose of receiving "enhanced 911" emergency calls. Any member of the community may register via the telephone company (Bell Atlantic) to have this service made available to them. Calls coming in to the station, from regular or TTY instruments, via this line immediately display pertinent information about the caller. Application forms for subscribing to this service are made available through the Andover Police Department. **See Resource List.**

Purchasing

All contractors, prospective contractors, sub-contractors, vendors, and suppliers will be notified in writing that, by law, while performing the work of their contract, they must not discriminate against any worker, employee, applicant for employment, or participant in the contracted program, on the basis of sex and sexual preference, race, age, religious preference, color, national origin, or disability.

Contracted providers of programs are required to provide equally effective opportunities for individuals with disabilities to participate in and benefit from the services and programs supported by public funds.

Human Resources

Employment/Pre-employment Criteria Policy

The Town of Andover, including the Andover Public Schools, recognizes that a very important element of the Americans with Disabilities Act pertains to the employer/employee relationship. The law prohibits employers from discriminating against a qualified person with a disability in all employment-related activities such as recruitment, hiring, promotion, demotion, layoff and recall, compensation, job assignments, job classification, benefits, training, and employer-sponsored activities including recreational or social programs. The Town of Andover strives to uphold and enforce these regulations and affirms that it shall offer the same employment rights and opportunities to all qualified applicants and employees.

The Town of Andover shall not use any pre-employment tests or other selection criteria that screens out, or tends to screen out, individuals with disabilities. To this end, all pre-employment inquiries will be restricted to an assessment of whether or not an individual is capable, with or without reasonable accommodation, to perform the essential functions of a job. Job descriptions are periodically reviewed to carefully delineate the essential duties from those which are marginal.

A qualified applicant is one who, with or without reasonable accommodation, can accomplish the principal objectives or essential functions of a job. A reasonable accommodation is an adjustment to a job (or the way a job is done), an employment practice, or work environment that makes it possible for an individual with a disability to perform the essential functions of the position and to enjoy on equal terms, conditions and benefits of employment.

Such modifications may include: making job facilities accessible and equally usable to all; modifying work schedules and when and how an essential function of a job is performed; obtaining, and modifying adaptive job equipment or devices; reassigning non-essential job functions; modifying methods of supervision or evaluation; modifying tests, examinations, selection devices, and/or the manner in which the same are administered; allowing time off for medical reasons; and reassignment or transfer to a vacant position.

In assessing a candidate for employment, promotion, or transfer, the Town of Andover will not inquire about a candidate's disability or need for a reasonable accommodation, nor ask a third party, such as a former supervisor for any information about an applicant's disability. This principle applies to any question about the following subjects: treatment for medical conditions or diseases; questions concerning hospitalizations; questions about treatment by a psychologist or psychiatrist for a mental condition; information about any major illness; questions concerning

absences from work due to illness; and any questions concerning an individual's health history or worker's compensation experience.

The Town may ask an applicant about the ability to perform specific job functions. Inquiry may also be made concerning non-medical qualifications and skills such as education, work history or required licenses. All pre-employment inquiries will focus on an applicant's ability to do the job. Inquiries may include asking an applicant to describe or demonstrate how they would perform certain tasks, with or without accommodation, provided **all** applicants (except for applicants with visible or known disabilities) in the same job category are also asked the same questions. For example, if the job requires heavy lifting, the Town may ask **all** applicants to demonstrate how they would lift the weight. If an applicant needs a reasonable accommodation to do the demonstration, the Town will either provide the accommodation or ask the applicant to describe how the task would be performed.

Hiring managers should note that it is permissible for employers to ask whether an applicant can meet the attendance requirements for the job and about the applicant's attendance at a former job. However, managers cannot ask how often an applicant was absent from a former job due to illness, as that question is likely to elicit disability-related information. The Town of Andover shall not make any pre-employment inquiry or conduct a pre-employment medical examination of an applicant to determine whether the applicant has a disability or the nature or the severity of a disability. Upon making an offer of employment, certain categories of workers are routinely asked to submit to a pre-employment physical to determine specifically if they are able to perform the certain job-related functions of their position, with or without, reasonable accommodations.

The Town of Andover contracts with an occupational health service to assess a candidate's ability to perform the job and/or an employee's fitness to return to duty. The occupational health service is knowledgeable about the requirements of Town positions and is able to make sound medical assessments and suggest possible accommodations. Medical examination information is confidential and is not maintained as part of an employee's personnel file.

Reasonable Accommodation in Employment Policy

It is the policy of the Town of Andover that reasonable accommodation be made for any qualified applicant or employee with a disability, unless it can demonstrate that the suggested accommodation would impose an undue financial or administrative hardship on the Town. Job applicants or employees should request reasonable accommodation through their immediate supervisor. This request must be forwarded to the ADA Coordinator, who in conjunction with the ADA Action Committee, will render a decision within 10 working days. If it is decided that the accommodation be denied in that it would place an undue financial or administrative burden on the Town, the aggrieved party may appeal the decision through the grievance process.

In determining the type of reasonable accommodation required for an applicant or employee, the Town need not provide the best accommodation available or the accommodation specifically requested by the individual with the disability. Rather, the Town will provide an accommodation, at its own expense, that it deems effective for the purpose. **See Resource List.**

Community Development and Planning Division

It is the responsibility of the Community Development and Planning Division to be fully aware of the requirements of state and federal laws in regard to accessibility to public buildings and properties. Architectural situations which might become barriers to disabled users of a facility have been identified and efforts are on-going to bring Town and School buildings into compliance. The Town's accessibility audit and Transition plan are available upon request to the ADA Coordinator. **See Resource List.**

Social Services - Community Services, Youth Services, Elder Services, Veteran Affairs.

The Town of Andover provides a wide range of citizen services through the departments of Community Services, Youth Services, Elder Services, and Veteran Affairs. These services are available to all who choose to participate for the purposes of adult and youth support, entertainment and enrichment. Although every reasonable accommodation will be made to address the issues of people with disabilities, the nature of some of these programs may be limited for participants in regard to their physical agility and mental ability. The Program Directors, for reasons primarily of safety, will screen and advise registrants accordingly. Efforts will be made when developing programs, including those whom require transportation, to follow the goals and guidance of this policy to ensure maximum opportunity and integration of persons with limited physical or mental health.

A teletype (TTY) telephone is located in the office of Elder Services for the benefit of persons with speaking or hearing difficulties. **See Resource List.**

Housing

The Town of Andover Fair Housing Plan, established in 1983, was developed to facilitate the coordination of factors that affect housing and equal access to housing. Although the Town of Andover Housing Authority is not under the direct control of officials of Andover, the residents of these housing units share full entitlement to the benefits of this policy and other policies relevant to equal opportunity and nondiscrimination. **See Resource List.**

Accessibility Audit and Transition Plan

An audit was conducted to identify architectural and communication barriers throughout all municipal facilities including public school buildings. As a result of this survey, the Town developed a long-term strategic plan to correct, over time, many of the identified barriers. A copy of the Town's Access Survey and Transition Plan is available upon request to the ADA Coordinator.

Resource List

Federal, State, and Private Sector Agencies

Department of Justice (ADA)
Civil Rights Division
Public Access Section
Washington, DC 20035
(202) 514-0301 Voice
(202) 514-0383 TTY

Federal and State Disability Laws

Americans with Disabilities Act - 1990
42 U.S.C
Title I - Employment P.O. Box 66738
Title II - State and Local Governments
Title III - Private Accommodations

**Equal Employment Opportunity
Commission (EEOC)**

1 Congress Street
Boston, MA 02203
(617) 565-3200 Voice
(617) 565-3204 TTY

Massachusetts Office on Disability

One Ashburton Place
Boston, MA 02108
(617) 727-7440 Voice/TTY

Massachusetts Architectural Access Board

One Ashburton Place
Boston, MA 02108
(617) 727-0660 Voice/TTY

Massachusetts Commission Against Discrimination

One Ashburton Place
Boston, MA 02108
(617) 727 3990 Voice

New England ADA Technical Assistance Center

374 Congress Street
Boston, MA 02210
(617) 695-1225 Voice/TTY

The Northeast Independent Living Program, Inc.

20 Ballard Rd.
Lawrence, MA 01843
(978) 687-4288 Voice/TTY
Local Resource Information

Town Offices

36 Bartlett Street
Andover, MA 01810
(978) 623-8200

ADA Coordinator

Ms. Candace Hall, Director of Human Resources
36 Bartlett Street
Andover, MA 01810
(978) 623-8530

ADA Action Team Members

Joseph Piantedosi, Director of Plant & Facilities

Disability Commission

Justin Coppola – 978-475-0363

Teletype (TTY) telephone numbers

Enhanced "911" See Police/Fire section for details

Mass. Architectural Access Board - 1967

G.L c22

Mass. Disability Commissions - 1993

G. L. c40

Mass. Public Education Law

Chapter T66 – 1972 G.L. c718

Mass. Employment Discrimination Law 1955

G.L c1518

Federal Fair Housing Act - 1988

42 U.S.C. 13

Police Station (Routine) ((978) 475-8944
Elder Services (978) 623-8333 Relay Calls
TTY: (800) 439-2370 Voice: (800) 439-0183

Town of Andover Housing Authority

Christine Metzemaekers – 978-475-2365
100 Morton Street
Andover, MA 01810

Architectural Barrier Guidelines

Federal - ADA Accessibility Guidelines for Buildings and Facilities
Massachusetts - Rules and Regulations of the Architectural Access Board

Town of Andover ADA Complaint Form

Date of Filing: _____

Complainant's Name: _____

Address: _____

Nature of Complaint:

(Please describe your concern in detail. If appropriate, please specify location and please include the date(s) the incident occurred. You may use the other side of this form if necessary.)

Please specify desired remedy: _____

XV.3 Sexual Harassment in the Workplace

I. PURPOSE

This memorandum establishes the policy of the Town of Andover regarding sexual harassment in the workplace by managers, supervisors, employees, members of the public who use Town facilities, vendors and contractors. This memorandum also describes examples of conduct that may constitute unlawful sexual harassment and sets forth a complaint procedure to be followed by persons who believe that they are victims of unlawful sexual harassment.

II. POLICY

The Town of Andover fully supports the right of all persons to hold employment in, or enjoy access to, our facilities in an atmosphere which promotes equal opportunities and prohibits discriminatory practices, including sexual harassment. It is the Town's policy to maintain an environment that is free of sexual harassment. Sexual harassment by managers, supervisors, employees, members of the public who use Town facilities, vendors and contractors is unlawful and unacceptable and will not be tolerated. Further, any retaliation against an individual complaining of sexual harassment or cooperating with the investigation of sexual harassment is similarly unlawful and also will not be tolerated.

We view allegations and concerns about sexual harassment very seriously, and we will respond quickly and decisively to instances when complaints of sexual harassment are brought to our attention.

Where it has been demonstrated to our satisfaction that such harassment has occurred, we will promptly deal with and eliminate any harassment and/or other unlawful conduct. We will impose such corrective action as is necessary up to and including termination.

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, it should not be construed as preventing, limiting, or delaying the Town of Andover from taking disciplinary action against any individual up to and including termination, in circumstances where the Town of Andover deems disciplinary action appropriate regardless of whether such conduct satisfies the definition of sexual harassment.

III. DEFINITION OF SEXUAL HARASSMENT

A. The legal definition of sexual harassment:

Sexual harassment is a form of sex discrimination that is illegal under both Title VII of the Civil Rights Act of 1964 and G.L. c. 151B. These laws provide that unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature constitute sexual harassment when:

- submission to or rejection of such advances, requests or conduct is made whether explicitly or implicitly a term or condition of an individual's employment or a basis for employment decisions affecting the individual; or

- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, humiliating or sexually offensive work environment.

These definitions are broad and include any sexually oriented conduct, whether it is intended to harass or not, that is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating or humiliating to either male or female workers.

B. Examples of conduct that can constitute unlawful sexual harassment:

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive and that fails to respect the rights of others. Sexual harassment occurs in a variety of situations which share a common element: the inappropriate introduction of sexual activities or comments into the work environment.

Sexual harassment often involves relationships of unequal power. Such situations may contain elements of coercion, such as when compliance with requests for sexual favors becomes a criterion for granting privileges or favorable treatment on the job. However, sexual harassment may also involve relationships among "equals," such as when repeated advances or demeaning verbal comments by a co-worker towards another co-worker have a harmful effect on a person's ability to perform his or her work. Sexual harassment can also involve employee behavior directed at non-employees or non-employee behavior directed at employees.

Examples of sexual harassment include, but are not limited to:

- repeated, unwanted sexual flirtations, advances, or propositions;
 - continued or repeated verbal abuse or innuendo of a sexual nature;
 - uninvited physical contact such as touching, hugging, patting, brushing or pinching;
 - verbal comments of a sexual nature about an individual's body or sexual terms used to describe an individual;
 - display of sexually suggestive objects, pictures, posters or cartoons;
 - continued or repeated jokes, language, epithets, or remarks of a sexual nature in front of people who find them offensive;
 - comments or inquiries about a person's body or sexual activity, deficiencies, or prowess;
 - prolonged staring or leering at a person;
 - making obscene gestures or suggestive or insulting sounds, such as whistling;
-
- the demand for sexual favors accompanied by an implied or overt threat concerning an

individual's employment status or promises of preferential treatment, such as favorable performance reviews, salary increases, promotions, increased benefits, or continued employment;

- indecent exposure;
- assault or coerced sexual acts.

This behavior is unacceptable in the workplace itself and in other work-related settings such as work-related social events and travel.

C. Dispelling common myths about harassers and victims:

Contrary to popular belief, sexual harassment is not limited to prohibited behavior by a male employee toward a female employee or by a supervisory employee toward a non-supervisory employee. Sexual harassment can be found in any of the following less "traditional" situations:

1. A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser.
2. The harasser does not have to be the victim's supervisor. He or she may be a supervisory employee who does not directly supervise the victim, a co-worker, or in some circumstances, a non-employee such as a member of the public who uses Town facilities.
3. The victim does not have to be the opposite sex of the harasser.
4. The victim does not have to be the person at whom the unwelcome sexual conduct is directed; the victim may be someone who is affected by such conduct even though it is directed at another person. For example, the sexual harassment of one employee may create an intimidating, hostile, humiliating or offensive work environment for a coworker, or may interfere with the coworker's work performance. In addition, consensual sexual behavior in the office between two employees may be offensive to a third employee or result in favoritism that harms the third employee.
5. Sexual harassment does not depend on the victim's suffering an economic injury, such as losing a promotion, as a result of the harasser's conduct. As the examples of improper conduct listed above show, sexual harassment can occur whenever unwelcome conduct of a sexual nature creates an intimidating, hostile, humiliating or offensive work environment.

IV. EMPLOYEE RESPONSIBILITIES

Each employee of the Town of Andover is personally responsible for ensuring that his or her conduct does not sexually harass any other employee or non-employee in the workplace. Each employee is responsible for cooperating in any investigation of alleged sexual harassment if requested to do so by the person conducting the investigation.

V. SUPERVISOR AND MANAGER RESPONSIBILITIES

It is the responsibility of each supervisor and manager to strictly enforce the terms of this policy. Supervisors, managers, or department heads who become aware of incidents of sexual harassment in their departments, even in the absence of a formal complaint, should take

appropriate actions to eliminate the conduct. Supervisors and managers may seek further information and guidance from the Personnel Department

VI. WAYS OF DEALING WITH SEXUAL HARASSMENT

A. Self-help

If an individual believes that he or she is being sexually harassed, the most immediate goal is to stop the offensive conduct. Individuals should:

- Promptly and firmly confront whomever is doing the harassing.
- State that his/her conduct offends, intimidates, and/or embarrasses you.
- Describe how the harassment negatively affects your work.
- Request that he or she stop the conduct immediately.
- Say things like: "Please don't touch me. I don't like it. It makes me uncomfortable"; "I don't think jokes like that are funny. Please don't tell them when I am in the room"; "I'd like it a lot better if you'd comment on the quality of my work rather than on the way I look"; "My name is _____, not 'honey'."

If practical, bring a witness with you for this discussion. After the discussion, write a summary of the conversation, including the date and name of anyone who accompanied you.

In all instances where an individual believes that he or she has been sexually harassed, it is helpful, but not necessary, to write down a description of the offensive conduct, the date or dates on which it took place, and the names of anyone who witnessed the conduct or heard the offensive remarks.

B. Seeking Guidance

In some instances, confronting the harasser directly may be too intimidating or uncomfortable, particularly when the harasser is an immediate supervisor. An individual who wants to discuss his/her situation may contact the Town's Personnel Director for more information about sexual harassment and the complaint procedure in order to decide whether to make a complaint.

C. Formal Complaint

1. An individual who believes that they have been subjected to sexual harassment has a right to file a formal complaint with his/her supervisor or, if appropriate, the Personnel Director. This may be done orally or in writing. The supervisor and/or the Personnel Director will conduct an investigation in a fair and expeditious manner.

The investigation will include a private interview with the person filing the complaint and with any witnesses. An interview with the alleged harasser will also be conducted. Once the investigation has been completed, the supervisor and/or the Personnel Director will present the findings to the appropriate department head.

2. If an investigation of a complaint of sexual harassment reveals that an employee, supervisor, manager or department head has engaged in actions or conduct constituting sexual harassment, the Department Head and/or the Town Manager will act promptly to eliminate the offending conduct and take appropriate disciplinary action, up to and including discharge. The disciplinary action taken will depend upon the seriousness of the violation.

Disciplinary action will be taken by the appropriate Department Head, in accordance with the Personnel Policy and Procedures Manual, appropriate union contract, or other appropriate disciplinary procedure. Such action may include: counseling, informal or formal reprimands, oral or written warnings, suspension, demotion, transfers, and other formal sanctions, including termination of employment. It is the responsibility of all supervisors, managers and department heads to strictly enforce the terms of this policy.

3. Any supervisor, manager or department head who prevents or attempts to prevent an individual from making a complaint of sexual harassment, or who fails to cooperate with or interferes in any way with the investigation of such a complaint, will be subject to disciplinary action.
4. *No Retaliation for Filing Complaint of Sexual Harassment:* No employee, supervisor, or manager shall be retaliated or discriminated against in any way for making a complaint of sexual harassment or for assisting in the investigation of such a complaint. Retaliation against any person for reporting sexual harassment is unlawful and will not be tolerated; further, it will subject the retaliator(s) to disciplinary action.
5. Any non-employee found to have committed an act of sexual harassment may be removed from town premises, or other appropriate action may be taken.
6. *Confidentiality:* All actions taken to investigate and resolve complaints through this procedure shall be conducted with as much confidentiality as possible without compromising the thoroughness of the investigation. The individual filing the complaint will be informed of the results of the investigation.
7. If you would like to file a sexual harassment complaint, you may do so by contacting your supervisor at his/her office or by calling the main switchboard at (508)623-8200. You can also contact the Personnel Director, who may be reached at (508)623-8530. These persons are also available to discuss any concerns you may have and to provide information to you about the Town's policy on sexual harassment and the complaint process.

D. Appeals Process

Employees who believe they have been unfairly disciplined may appeal the decision to the Town Manager. This request for review must be put in writing to the Town Manager, and must be received within one calendar week of the Department Head's decision. The Town Manager can be reached by telephone at (508)623-8200, or by interoffice mail.

E. Union Grievances

Town employees who are union members may elect to file a grievance under their collective bargaining agreement.

F. Other Options

Should employees choose to pursue a course of action outside of the Town, several options exist. They may file a complaint with the Massachusetts Commission Against Discrimination and/or the Equal Opportunity Commission. These government agencies handle complaints of job discrimination, including sexual harassment, and can be reached at:

**Massachusetts Commission
Against Discrimination**
One Ashburton Place, Room 601
Boston, MA 02108
(617)727-3990

**U.S. Equal Employment
Opportunity Commission**
1 Congress Street
Boston, MA 02114
(617)565-3200

Please note that these agencies have a short time period for filing complaints. You must file a complaint with the MCAD within 6 months of the occurrence, and with the EEOC within 180 days.

In addition to the above mentioned government agencies, the Town's Employee Assistance Program assists employees who are dealing with the stress of harassment or seeking guidance for addressing the behavior. The Town's EAP, Family Service Association of Greater Lawrence, may be contacted through their 24-hour hotline number, (800)683-9544, or during the regular work day at (508)683-9505.

All people have the right to engage attorneys to represent their interests. This list is not exhaustive and is not intended to represent legal advice or referral. All employees are encouraged to avail themselves of the complaint procedure offered by the Town of Andover.

Sexual Harassment Coordinators:

Reginald S. Stapczynski, Town Manager
Candace A. Hall, Personnel Director

Reginald S. Stapczynski

Date

Revision: This policy has been revised based on recommendations by the Massachusetts Commission Against Discrimination, September, 1996, and again in February, 1997.

XV.4 AFFIRMATIVE ACTION PLAN

IN ORDER TO ensure equal opportunity to all employees and applicants for employment without regard to sex, race, age, religious preference, color, national origin or non job-related handicap;

IN ORDER TO remedy the present and past effects of discriminatory hiring practices, intentional or unintentional;

IN ORDER TO increase employment and training opportunities for females and minority employees and applicants and to increase their strength in the middle and upper grade classification levels and in all positions of responsibility; and

IN ORDER TO ensure equal opportunities and anti-discrimination with respect to females and minority group members,

The Town of Andover has adopted an Affirmative Action Program. The Town of Andover (to wit, the Town Manager and 5 Select Board members) is committed to a policy of Non-Discrimination and Equal Opportunity in all of its decisions, programs, activities and in all categories of employment.

This Affirmative Action Plan will be an aggressive action to ensure equality of opportunity in recruitment, employment, compensation, fringe benefits, staff development and training, promotions, terminations and all other conditions of employment as set forth in Executive Order No. 74, as amended and revised by Executive Order No. 116, as amended by Executive Order No. 227, February 25, 1983, Governor's Code of Fair Practices, Massachusetts General Laws, Chapter 151B, Title VII, of the Civil Rights Act of 1964, and all other applicable State and Federal Civil Rights Laws.

As Federal and State funded contractors, the Town of Andover recognizes its responsibility and commitment to employ Affirmative Action Principles in its contracting operations to insure implementation by its several constituencies of Affirmative Action employment in all categories, and to require aggressive affirmative recruitment programs as required to comply with the President's Executive Order #11246 as amended by Executive Order #11375 and other pertinent equal opportunity provisions of Grants and Contracts of HUD. The Town of Andover shall address the Fair Housing issue in order to fulfill its obligations under the State and Federal equal opportunity standards.

The Town of Andover shall create a Fair Housing Committee whose objectives and purposes are those set forth in Executive Order No. 227, February 25, 1983, Governor's Code of Fair Practice, Massachusetts General Laws Chapter 151B; Administrative 75-14, Federal Executive Order No. 11063 EEO in Housing and the Federal Civil Rights Act of 1968, Title VIII – Fair Housing as amended by the Housing and Community Development Act of 1974.

As such, the members of the Town of Andover Select Board, the Town Manager, as policy and procedures are determined, and all Town of Andover personnel responsible for the functional implementation of this plan, shall share in the efforts to assure Equal Opportunity in all Town of Andover programs, both internally and externally. Serious consistent and diligent performance, not good faith alone, shall be the standard.

Additional details of the Affirmative Action Plan are spelled out in the full text and include the following:

Administration of Affirmative Action Policy
Statement of Responsibility
Affirmative Action Officer
Contract Compliance Officer
Fair Housing Director
Dissemination of Policy
Recruitment
Compliance Procedures

2/5/85



XV.5 Anti-Fraud Policy - Introduction

The Town of Andover and the Andover Public Schools recognize the importance of protecting the Town and its operations, citizens, taxpayers, employees and assets against financial risks and unethical activities. It is the policy of the Town of Andover and the Andover Public Schools to institute and clearly communicate a fraud prevention policy in an effort to prevent and deter all forms of fraud that could threaten the security of our assets and our reputation.

The Town of Andover and the Andover Public Schools have a Zero Tolerance policy with regard to fraud and are committed to undertake the following steps as part of their anti fraud policy:

- *Education*
- *Prevention*
- *Detection*
- *Investigation*
- *Corrective Action*

Education

The most effective way to reach most employees is through education. Actively fighting fraud means implementing policies and procedures that prevent and detect fraud. The Town's goal is to establish and maintain an environment of fairness, ethics and honesty. To maintain such an environment requires the active assistance of every employee, every day.

Definition of Fraud

Fraud is defined as a deception deliberately practiced to secure unlawful gain. The term includes such acts as: bribery, deception, embezzlement, extortion, false representation, forgery, the concealment of material facts, the misappropriation of money or assets and collusion or conspiracy to commit any or all of the above acts.

The Town of Andover

Anti-Fraud Policy

Reporting of Fraud

The Town recognizes that allegations and concerns about fraudulent activity should be reported to the Town Manager or his/her designee through the established chain of command (department heads, division heads). All employees are encouraged to report any concerns they have or information provided to them about a possible fraudulent act. The Town Manager has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. All cases of suspected fraud will be investigated and appropriate action will be taken.

The Andover Public Schools recognizes that allegations and concerns about fraudulent activity should be reported to the Superintendent of Schools or his/her designee through the established chain of command (principals, directors, supervisors). The Superintendent or his/her designee will report allegations of fraud directly to the Town Manager or his/her designee. All employees are encouraged to report any concerns they have or information provided to them about a possible fraudulent act. For reasons of consistency and maintaining a central point of contact, the Town Manager has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. All cases of suspected fraud will be investigated and appropriate action will be taken.

Applicability

This Policy applies to all employees and elected or appointed officials, Town and School, full, part-time and temporary, all Town Board members, Town Committee members and Town Commission members, here and after, referred to as Employees.

The Town of Andover

Anti-Fraud Policy

Fraud, as defined by this policy, includes any misuse or attempt to misuse a Town asset for personal gain or purposes unrelated to Town business. It may include, *but is not limited to*:

Misappropriation of Assets

- Forgery, alteration or misappropriation of cash, checks, bank drafts, promissory notes, securities or any other financial document
- Unauthorized use or disposition of funds or property
- Falsifying timesheets or payroll records
- Falsifying travel expenses and /or utilizing Town funds to pay for personal expenses or for personal benefit
- Theft
- Embezzlement
- Fictitious reporting of receipt of funds
- Falsification of expenses and invoices
- The use or assigning of a Town or School employee on other than Town or School business.
- Actions which cause the Town's financial reports and/or records to be inaccurate

Profiteering

- Offering, giving, soliciting and/or accepting an inducement or reward that may improperly influence the action of an employee of the Town.

Related Policies

This is a Town policy that is designed to augment Chapter 268A - "The Conflict of Interest Law". It is not intended to replace or preclude it in any way.

This policy will be administered in accordance with Massachusetts General Laws, Chapter 149 Section 185 "*Retaliation against employees reporting violations of law or risks to public health, safety or environment; remedies*".



The Town of Andover

Anti-Fraud Policy

Response Program - Town

General Policy and Responsibilities -Town

The Town Manager or his/her designee is responsible to investigate any suspected acts of fraud or misappropriation of property. An objective investigation will be conducted of any person, group or organization reasonably believed to have committed fraud, regardless of: position, job title, and length of service or relationship with the Town. Division Heads and Department Heads are responsible for instituting and maintaining programs and controls to prevent deter and detect fraud.

All employees, upon discovery of any violation of this policy, are encouraged to notify the Town Manager or his/her designee of the violation through the normal chain of command. If the Town Manager determines that corrective action may be provided for internally within the department, then the Division Head and or the Department Head will notify the Town Manager as to the steps taken to correct the violation.

The Town Manager or his/her designee has the primary responsibility for overseeing the investigation of all suspected fraudulent acts as defined in this policy. The Town Manager will involve such individuals, but not limited to: the Town Accountant, Town Treasurer, Director of Finance, Town Law Enforcement, Human Resources, Legal Counsel and others deemed appropriate.

Upon conclusion of the investigation, the results will be reported to the Town Manager or his/her designee. If there are reasonable grounds to believe that a fraud may have occurred, then the Town Manager will report the incident(s) to the appropriate authorities. Whatever action is taken by such appropriate authorities will not preclude the Town taking disciplinary action where it believes discipline is warranted. Every reasonable effort will be pursued to recover Town assets.

Procedures for Reporting

Any employee, who reasonably believes that fraud has occurred, is encouraged to notify the Town Manager or his/her designee. In cases where an employee reasonably believes the Town Manager is involved, the employee is encouraged to notify the Town Accountant. If it is reasonably believed that the Town Accountant is involved, then the employee is encouraged to notify the Director of Human Resources.

The Town of Andover

Anti-Fraud Policy

Response Program - Town

Investigation

Once notification or discovery of a suspected fraud has occurred, then the Town Manager or his/her designee will immediately investigate the suspected fraud. The Town Manager will make every reasonable effort to maintain confidentiality. If the suspected fraud involves the Town Manager is involved in the report of fraud, then the investigation will be conducted by the Town Accountant. If the suspected fraud involves both the Town Manager and the Town Accountant, then the investigation will be conducted by the Director of Human Resources and the appropriate authorities.

Security of Evidence

Once a suspected fraud is reported, immediate action to prevent the theft, alteration, or destruction of relevant records shall be initiated. The records will be adequately secured until the investigation is complete.

Confidentiality

All participants and all persons questioned in a fraud investigation will keep the details and results of the investigation confidential so as not to violate an individual's expectation of privacy.

Personnel Actions

If a suspicion of fraud is substantiated by the investigation, then the Town Manager or his/her designee shall take disciplinary action, up to and including dismissal and appropriate legal measures. Such disciplinary action may be taken independent of any findings and conclusions reached by any appropriate authority to which the fraud allegations are reported.

If an allegation is made predicated upon the reasonable belief that a violation has occurred, but it is not confirmed by the investigation, then no action will be taken against the originator. If however, the allegation is made and predicated without the reasonable belief that a violation has occurred, then appropriate disciplinary action may be taken against the individual making the false allegation up to and including termination.



The Town of Andover

Anti-Fraud Policy

Response Program - School

General Policy and Responsibilities -School

The Town Manager or his/her designee is responsible to investigate any suspected acts of fraud or misappropriation of property. An objective investigation will be conducted of any person, group or organization reasonably believed to have committed fraud, regardless of: position, job title, and length of service or relationship with the Town.

All Andover Public School Employees, upon discovery of any violation of this policy, are encouraged to notify the Superintendent of Schools or his/her designee of the violation through the normal chain of command. The Superintendent or his/her designee will report all allegations of fraud to the Town Manager. If the Superintendent or the Town Manager determines that corrective action may be provided for internally within the department, the Superintendent will notify the Town Manager as to the steps taken to correct the violation.

The Town Manager or his/her designee has the primary responsibility for overseeing the investigation of all suspected fraudulent acts as defined in this policy. The Town Manager will involve such individuals, but not limited to: the Town Accountant, School Superintendent, Town Treasurer, Director of Finance, School Business Manager, Town Law Enforcement, Human Resources, Legal Counsel and others deemed appropriate.

Upon conclusion of the investigation, the results will be reported to the Town Manager or his/her designee and the School Superintendent or his/her designee. If there are reasonable grounds to believe that a fraud may have occurred, then the Town Manager will report the incident(s) to the appropriate authorities. Whatever action is taken by such appropriate authorities will not preclude the Town or the Public Schools taking disciplinary action where they believe it is warranted. Every reasonable effort will be pursued to recover Town and/or School assets.

Procedures for Reporting

Any Andover Public School employee, who reasonably believes that fraud has occurred, is encouraged to notify the Superintendent of Schools or his/her designee. In cases where an employee reasonably believes the Superintendent is involved, the employee is encouraged to notify the Town Manager. If it is reasonably believed that the Town Manager is involved, then the employee is encouraged to notify the Director of Human Resources.

The Town of Andover

Anti-Fraud Policy

Response Program - School

Investigation

Once notification or discovery of a suspected fraud has occurred, then the Town Manager or his/her designee will immediately investigate the suspected fraud. The Town Manager will make every reasonable effort to maintain confidentiality. Where the Town Manager is involved in the report of fraud, then the investigation will be conducted by the Town Accountant. Where both the Town Manager and Town Accountant are involved in the report of fraud, then the investigation will be conducted by the Director of Human Resources and the appropriate authorities.

Security of Evidence

Once a suspected fraud is reported, immediate action to prevent the theft, alteration, or destruction of relevant records shall be initiated. The records will be adequately secured until the investigation is complete.

Confidentiality

All participants and all persons questioned in a fraud investigation will keep the details and results of the investigation confidential so as not to violate an individual's expectation of privacy.

Personnel Actions

If a suspicion of fraud is substantiated by the investigation, after conferring with the Town Manager or his/her designee, then the Superintendent of Schools or his/her designee shall take disciplinary action, up to and including dismissal and appropriate legal measures. Such disciplinary action may be taken independent of any findings and conclusions reached by any appropriate authority to which the fraud allegations are reported.

If an allegation is made predicated upon the reasonable belief that a violation has occurred, but it is not confirmed by the investigation, then no action will be taken against the originator. If however, the allegation is made and predicated without the reasonable belief that a violation has occurred, then appropriate disciplinary action may be taken against the individual making the false allegation up to and including termination.

**The Town of Andover
Anti-Fraud Policy
Dissemination**

A copy of the Anti-Fraud Policy will be distributed to all existing and new employees.
Your signature acknowledges receipt of the Policy.

Approved by the Select Board June 8, 2009 Approved
by the School Committee June 9, 2009


Reginald S. Stapczynski, Town Manager



Dr. Claudia Bach, Superintendent of Schools

The Town of Andover **Anti-Fraud Policy**

ACKNOWLEDGEMENT

My signature signifies that I have read the Policy and that I understand my responsibilities related to prevention, detection and reporting of suspected misconduct and dishonesty.

Signature: _____

Print Name: _____

Date Signed: _____

SOURCE: Town of Andover, Anti-Fraud Policy, effective June 30, 2009

