

Handbook of Policies, Ordinances, and Position Descriptions



Town of Middletown Springs, Vermont
Updated Regularly—current update January 2025

Introduction

For many years, the Select Board of the Town of Middletown Springs have considered and enacted policies and ordinances that they believed would enhance the general well-being of our community. However, those policies were not compiled into a single document, nor examined for possible overlap or contradiction.

At the urging of our Auditors, the Select Board has now created a unified handbook of all known Town policies, ordinances, and descriptions of elected and hired positions. We hope that future Boards, elected officers and employees will find this a helpful document, and will undertake its annual review and update.

Quick Definitions

POLICY: a description of appropriate standards of behavior for the Town's officers and employees, adopted by an elected body of the Town.

ORDINANCE: a description of appropriate standards of behavior for the Town's citizens, adopted by an elected body of the Town.

The Select Board may adopt and enact policies and ordinances at any appropriately warned public meeting. However, ordinances that the Board determines are likely to be contentious or that will require substantial community buy-in should be put to Town vote at an appropriately warned election.

History of Development

There has long been a pair of binders in the Town Office, containing policies and ordinances dating back to the mid-1990s. The Auditors have requested since 2013 that the Select Board build a single, searchable document for ease of reference, and keep that document both in the Town Office and on the Town's website at <http://middletownsprings.vt.gov/>.

In November 2017, the Board took up that task, scanning and combining all of the ordinances and policies from those two binders. The only changes that were made were in formatting and spelling—the contents of ordinances and policies were not modified. Any documents in those binders that did not fall under the headings of policies, ordinances, or position descriptions were not included in this overview document. The binders remain in their original state at the Town Office, to be referred to in questions of history of adoption.

The resulting compiled document was then shared with all Select Board members, the Town Clerk, Treasurer, Auditors, Listers, Librarian, Transfer Station Manager, Road Commissioner, and Justices of the Peace for first review. No modifications were made on the basis of this review: its function was 1) to raise awareness of the existence of policies and ordinances already enacted, 2) to begin to name policies and ordinances that might require revision, and 3) think of policy and ordinance gaps that the Town's officers might consider taking up in the 2018-19 Board year.

Next Steps

The Select Board will annually confirm the official status of all policies and ordinances contained in this handbook. The first confirmation took place in January 2018. We encourage future Boards to add or revise policies and ordinances in spring and early summer, and to confirm the updated handbook at the beginning of each new fiscal year at or near July 1st.

Any citizen of the Town of Middletown Springs may at any time request that the Town consider adopting or modifying a policy or ordinance. This can be through regular Board operations at regularly warned meetings, or by petitioned item to be placed on the ballot for vote at Town Meeting or other election.

We hope that this Handbook offers clarity to all members of our community about the responsibilities of Town officers and employees to our citizens, and the responsibilities that all townspeople have to one another.

This edition of the Town Policy Manual was assembled by Town Clerk, Patty Kenyon on January 17, 2025, after adoption of a Revised Purchasing Policy and the Policies Related to Expenditures Drawn from Federal ARPA Funding adopted on December 12, 2024 and January 9, 2025 respectively.

Attest: Patty Kenyon

Date: January 17, 2025

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Policies Related to General Town Governance and Operation

Financial Year and Work Week Definitions [2003]

TO ALL ELECTED, APPOINTED & HIRED PERSONNEL:

Effective May 10, 2003, the financial work week is Saturday through Friday. All weekly time cards, monthly work statements and related department costs should be in the town office by noon on Saturday previous to any Monday Selectboard Meeting.

This action requested by the Selectboard will facilitate an orderly, timely and accurate manner in which the orders are written and paid. Also, please remember our fiscal year ends on June 30, 2003.

The Middletown Springs Selectboard will be appreciative of your timeliness.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of May 1, 2003

- Name, Chair
- Name
- Shirley Moyer, Clerk
- Name
- Name

Personnel Policy [2022]

Section 1: Title and Authority

This policy shall be known as the Town of Middletown Springs Personnel Policy. It has been adopted by the Town of Middletown Springs Selectboard pursuant to 24 V.S.A. §§ 1121 and 1122.

This personnel policy does not constitute a contract of employment. Employment with the Town of Middletown Springs is **at will** and not for any definite period or succession of periods of time. The Town or the employee may terminate employment at any time, with or without notice. The selectboard reserves the right to amend any of the provisions of this personnel policy for any reason and at any time, with or without notice.

This personnel policy will be administered by the Selectboard or its authorized representative.

Each employee who is subject to this policy is required to sign an acknowledgement that he or she has been provided a copy of this policy. This acknowledgement will be maintained in the town's personnel files. This acknowledgement is included as Addendum A.

Section 2: Persons Covered

This personnel policy applies to full-time and part-time employees of the Town of Middletown Springs. Except as stated herein, elected officers and their statutory assistants, members of Town boards and commissions, volunteers, seasonal employees and persons who provide the Town with services on a contract basis are not covered by this policy.

For purposes of this policy, a full-time employee is an employee who works at least thirty (30) hours per week on a regular and continuing basis. A part-time employee is an employee who works fewer than thirty (30) hours per week on a regular and continuing basis.

Where a conflict exists between this policy and any collective bargaining agreement or individual employment contract, the latter will control.

Section 3: Equal Employment Opportunity

The policy of the Town of Middletown Springs is to provide equal opportunity to all employees and applicants without regard to race, color, religion, sex, sexual orientation, age, nationality origin, marital status, disability, veteran's status or any other category under local, state or federal law.

Section 4: Probationary Period

All new employees will be required to complete a six-month probationary period. The purpose of this probationary period is to determine whether the employee is suited for the job. During the probationary period, an employee may be terminated at any time at the sole discretion of the Town.

Notwithstanding any other provision of this policy, an employee terminated during the probationary period will have no right to appeal such termination.

Section 5: Conduct of Employees

All employees are considered representatives of the Town and as such are expected to conduct themselves in a courteous, helpful and respectful manner in all their interactions with the public and other employees.

All employees are expected to faithfully execute the duties and responsibilities of their office to the best of their ability and in compliance with the provisions of this personnel policy.

Section 6: Supervision

The Selectboard of the Town of Middletown Springs has ultimate supervisory responsibility for all Town employees. The Road Foreman is the immediate supervisor of all highway workers; the Selectboard is the immediate supervisor of the Road Foreman and of all other Town employees. Wherever this policy indicates that an employee should contact his or her “immediate supervisor,” that person would be the Road Foreman for all highway employees, and the Chair, Vice-Chair, or any member of the Selectboard for the Road Foreman and for all other Town employees.

Section 7: Hours of Service

Work hours for the road crew, including Road Foreman, will be set by the Road Foreman in consultation with the Selectboard.

Regular work hours for other Town employees may be set by the Selectboard as needed for effective operation of Town functions.

Regular work hours may be changed, and employees may be expected to work additional hours that may exceed forty hours in a given week, as circumstances require.

All employees are expected to be in attendance during regular work hours. Employees who will be absent from work are expected to notify their supervisor in advance whenever possible. Employees who are calling in sick are expected to notify their immediate supervisor as soon as possible, but no later than 7 a.m.

Section 8: Gratuities and Gifts

Employees may not directly or indirectly ask, demand, exact, solicit, accept or receive a gift, gratuity, act or promise beneficial to that individual, or another, which could influence any action or inaction associated with their official duties on behalf of the Town, or create the appearance of impropriety in connection with any actions or inactions associated with their official duties on behalf of the town.

Section 9: Outside Employment

The primary occupation of all full-time employees shall be to the Town. Employees are prohibited from undertaking outside employment that interferes with their job performance or constitutes a conflict of interest.

Prior to accepting any outside employment, employees will disclose their intent to the Selectboard in writing and obtain prior clearance from the Town that such employment does not constitute a conflict of interest.

A conflict of interest means a direct or indirect personal or financial interest of an employee, his or her close relative, household member, business associate, employer or employee. A close relative includes a spouse, civil union partner, romantic co-habitant, parent, stepparent, grandparent, child, stepchild, grandchild, sibling, aunt or uncle, niece or nephew, parent-in-law and sibling-in-law.

Section 10: Political Activity

No employee may use his or her official authority for the purpose of interfering with or affecting the nomination or election of any candidate for public official, or demand or solicit from any individual direct or indirect participation in any political party, political organization or support of any political candidate. Employees are prohibited from using Town facilities, equipment or resources for political purposes and from pursuing political activities while working.

This personnel policy is not to be construed to prevent employees from becoming or continuing to be members of any political party or organization, from attending political party or organization meetings or events, or from expressing their views on political matters, so long as these views are clearly articulated as being those of the individual and not of the Town, and these activities do not interfere with the individual's ability to effectively perform his or her duties and take place or are expressed during non-working hours. Nor is this personnel policy to be construed from prohibiting, restraining or in any manner limiting an individual's right to vote with complete freedom in any election.

Section 11: Nepotism

The Town—in recognition of the potential for a conflict of interest to occur in the workplace where a close relative (as defined in Section 9) is responsible for supervising or evaluating the work performance of another close relative—recommends against the hiring or transferring of relatives, when doing so will result in a close relative supervising or evaluating another close relative, or a close relative supervising or evaluating the immediate supervision of another close relative. Any possible supervision of a close relative shall be reviewed and approved by the Selectboard.

A close relative includes a spouse, civil union partner, romantic co-habitant, parent, stepparent, grandparent, child, stepchild, grandchild, sibling, aunt or uncle, niece or nephew, parent-in-law and sibling-in-law.

Section 12: Alcohol and Drug Use

Reporting to work or working under the influence of alcohol or drugs is strictly prohibited, unless the drug is prescribed and used in the manner prescribed by a duly licensed physician or dentist.

All Commercial Motor Vehicle (CMV) operators are also subject to the town's separate CMV Drug & Alcohol Policy.

Section 13: Tobacco Use

In recognition of the hazards that tobacco poses to the health of employees, and in accordance with 18 V.S.A. §§ 1421 et seq. and §§ 1741 et seq., the Town hereby prohibits employees' use of tobacco in any form in all publicly owned buildings, offices and enclosed areas, and in all Town vehicles.

Section 14: Performance Evaluations

All Town employees, both full-time and part-time, will have their work performance evaluated annually during the fourth quarter of the Town's fiscal year. These evaluations will be conducted by each employee's immediate supervisor. The intentions of these evaluations are to identify areas of particular success, and areas where specific performance improvements are needed. Where necessary, position duties may be amended by the Selectboard based on the review of prior year's performance.

If particular shortcomings in performance are identified in the annual evaluation, the supervisor and employee shall work together to develop a plan for addressing these shortcomings, and identify target outcomes and dates for accomplishing those goals.

The results of such evaluations will be submitted to the employee, the employee's supervisor, and the Selectboard, and will become a part of the employee's personnel file.

Section 15: Personnel Records

Personnel records will be maintained for each employee of the Town, and are considered confidential. The control of records is maintained by the Town Clerk; the Town Clerk may allow only current members of the Selectboard and the individual employee access to a personnel file, and only as part of their duties to the Town. As needed, the Selectboard may share relevant personnel records with insurance carriers and legal counsel and must transmit those records in a secure fashion to protect their confidentiality.

Personnel records will not contain material more than five years old, except those that pertain to the employee's original hiring or professional certification. Each Town employee is responsible for notifying their supervisor of any changes in health or certification that impact their work.

When a Town position is open, a file will be created to contain all application materials from all applicants. These applicant materials will be treated with the same confidentiality as employee records and will be securely disposed of two years after the position has been filled.

In accordance with Vermont's Public Records Law, any employee or the employee's designated representative may inspect or copy his or her personnel file at a mutually agreeable time during regular office hours. The Town reserves the right to have its representative present at the time its files are examined or copied.

Section 16: Use of Town Equipment

The use of Town equipment or property for personal use is strictly prohibited.

Section 17: Use of Town Computer System

The Town computer system is to be used by employees for the purpose of conducting Town business. Occasional, brief, and appropriate personal use of the Town computer system is permitted, provided it is consistent with this policy and does not interfere with an employee's job duties and responsibilities.

Employees should have no expectation of privacy regarding anything created, sent or received on the Town computer system. The Town may monitor any and all computer transactions, communications and transmissions to ensure compliance with this policy and to evaluate the use of its computer system. All files, documents, data and other electronic messages created, received or stored on the Town computer system are open to review and regulation by the Town and may be subject to the provisions of Vermont's Public Records Law.

Employees may not introduce software from any outside source on the Town's computer system without explicit prior authorization from their supervisor. Employees may be held responsible for any damages caused by using unauthorized software or viruses they introduce into the Town computer system.

Employees who have a confidential password to access the Town's operating system should be aware that this does not mean the computer system is for personal confidential communication, nor does it suggest that the computer system is the property of that person.

Transmission of electronic messages on the Town computer system shall be treated with the same degree of propriety, professionalism, and confidentiality as written correspondence. The following are examples of uses of the Town computer system which are prohibited:

- Communications that in any way may be construed by others as disruptive, offensive, abusive, discriminatory, harassing, or threatening;
- Communications of sexually explicit images or messages;
- Transmission of chain letters or solicitations for personal gain, commercial or investment ventures, religious or political causes, outside organizations, or other non job-related solicitations during or after work hours;

- Access to Internet resources, including web sites and news groups, that are inappropriate in a business setting;
- Any other use that may compromise the integrity of the Town and its business in any way.

Email messages that are intended to be temporary, non-substantive communications may be routinely discarded. However, employees must recognize that emails sent, received, or stored on the Town computer system are subject to Vermont's Public Records Law and may be covered by the State of Vermont's retention schedule for municipal records.

For purposes of this section, computer system means all computer-related components and equipment including, but not limited to, host computers, file servers, workstation terminals, laptops, software, internal or external communication networks, the world wide web (www), the Internet, commercial online services, bulletin board systems, back up systems and the internal and external e-mail systems accessed via the Town's computer equipment.

Section 18: Eligibility for Benefits

The Town Clerk is the Town's designated liaison for the management of the benefits outlined in the bullets below. Days off and leave time are tracked through the payroll accounting system. It is the responsibility of the Selectboard to inform the designated liaison each year of the plans, forms and procedures needed to carry out the delegated duties. The Town offers the following group insurance programs for the benefit of its full-time employees.

- contribution toward employee's health insurance, with amount to be set annually by Selectboard;
- contribution toward employee's vision and dental insurance, with amount to be set annually by Selectboard; and
- contribution toward employee's retirement plan, with amount to be set annually by Selectboard.

The town reserves the right to change insurance carriers, or to add, delete or amend insurance benefit programs in its sole discretion. The town also reserves the right to change the amount or percentage of its contribution to the cost of any group health insurance program. Employees will be provided with advance notice of any change in the contribution rate.

Section 19: Holiday Leave

Full-time employees will receive the following paid holiday leave:

- New Year's Day (January 1)
- Martin Luther King Jr.'s Birthday (3rd Monday in January)
- Presidents Day (3rd Monday in February)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Labor Day (1st Monday in September)
- Veterans' Day (November 11)

- Thanksgiving Day (4th Thursday in November)
- Christmas Day (December 25)
- Plus one floating holiday of the employee's choosing, with no less than seven calendar days' notice to the employee's supervisor

Holidays falling on a Saturday will be observed the preceding Friday. Holidays falling on a Sunday will be observed the following Monday. Unless otherwise approved by the employees' supervisor.

Employees will receive holiday leave pay at the employee's regular rate of pay. A non-exempt employee who is required to work on a holiday will receive the day's holiday pay, as well as regular hourly pay for time worked. If a non-exempt employee is not required to work on a holiday, hours paid for the holiday will not be counted as hours worked when determining overtime compensation.

Holidays that fall during an employee's vacation leave will not be charged as vacation leave.

Section 20: Vacation Leave

At the beginning of each fiscal year, full-time employees will receive vacation leave at the following annual rates:

- During the first year of employment, there are no vacation days
- During the second year of employment, there are five vacation days
- Beginning with the third year of employment, one additional vacation day per year of employment will be added (six days in 3rd year, seven days in 4th year, eight days in 5th year and so on) to a maximum of fifteen vacation days per year.

Full-time employees will receive vacation leave pay at the employee's regular rate of pay.

Employees are strongly encouraged to take an annual vacation. If an employee does not use all of the employee's vacation leave in a year, the employee will be compensated for unused leave at a rate equal to the employee's regular rate of pay on the last day of the Town's fiscal year of employment in which vacation leave was received.

An employee who resigns from employment with the Town will be compensated for the pro-rated amount of unused vacation leave calculated from the start of the current fiscal year, provided that the employee gives at least two weeks written notice of the resignation. If an employee has already used more vacation time at the time of their resignation than would have been accrued as a proportion of the work year, the overage will be deducted from their final paycheck.

Section 21: Sick Leave

At the beginning of each fiscal year, full-time employees will receive sick leave in accordance with Vermont State law. An employee may use sick leave for an illness or injury that prevents the employee from performing the employee's job duties. An employee may also use sick leave to attend the following appointments that cannot be held outside normal working hours:

- A medical appointment;
- An appointment eligible for short-term family leave under the provisions of the Vermont Parental and Family Leave Act (21 V.S.A. § 472a);
- A funeral;
- A meeting with the employee's personal attorney;
- An appointment for the closing, purchase, sale, or refinancing of a primary residence;
- Any other appointments authorized in advance by the employee's supervisor.

Full-time employees will receive sick leave pay at the employee's regular rate of pay.

If an employee does not use all of the employee's sick leave in a year, the employee will not be compensated for that excess unused leave. Upon separation from employment, an employee will not be compensated for unused sick leave.

Section 22: Bereavement Leave

At the beginning of each fiscal year, employees will receive up to three paid bereavement leave days per year, except as the Selectboard may determine that there are extenuating circumstances. Employees may use bereavement leave for the death of a close relative (as defined in Section 9) or any other relative if the relative was living in the same household as the employee immediately preceding his or her death.

Pay for bereavement leave will be at the employee's regular rate of pay. If an employee does not use all of the employee's bereavement leave in a year, the employee may not carry the unused leave forward to the next year. Upon separation from employment, an employee will not be compensated for unused bereavement leave.

Section 23: Parental and Family Leave

Eligible employees may receive leave as described in the Family and Medical Leave Act (FMLA) and the Vermont Parental and Family Leave Act (PFLA). These federal and state laws will determine employee eligibility, the qualifying reasons for such leave and the length of leave.

The Town reserves the right to designate any qualifying leave of absence granted under this policy as leave under FMLA or the PFLA. Where an employee's leave request is covered by the PFLA and the FMLA, the Town will adhere to the law that provides the most benefits to the employee. If an employee is entitled to leave under both the PFLA and FMLA, the leave periods will run concurrently.

For the purposes of determining the twelve-month period in which an employee may be entitled to PFLA and/or FMLA leave, the Town will use a rolling twelve-month period measured backward from the date an employee uses such leave.

Section 24: Short Term Family Leave

In accordance with the Vermont Short Term Family Leave Law, eligible employees may be entitled to take unpaid leave not to exceed four hours in any thirty-day period and not to exceed twenty-four hours in any twelve-month period for the following purposes:

- To participate in preschool or school activities directly related to the academic educational advancement of the employee's child, stepchild, foster child, or ward;
- To attend or accompany the employee's child or other family member to routine medical or dental appointments;
- To accompany the employee's parent, spouse or parent-in-law to other appointments for professional services related to their care and well-being; or
- To respond to a medical emergency of the employee's family member.

The Town may require that leave be taken in a minimum of two-hour segments. At the option of the employee, accrued paid leave may be used. An employee shall make a reasonable attempt to schedule appointments for which leave may be taken outside of regular work hours. An employee shall provide the Town with the earliest possible notice of the intent to take short term family leave, but in no case later than seven days before leave is to be taken, except in the case of an emergency.

Section 25: Leave of Absence Without Pay

All requests for leaves of absence without pay for any reason other than those covered by federal, or state law must be submitted in writing to the Selectboard and must set forth the purpose for which the leave is requested. All leave requests must be for a definite period of time and include a specified date of return.

If a leave of absence without pay is granted, the employee may, at the Town's sole discretion, continue the employee's group health plan coverage by paying the required premium in accordance the payment schedule established by the Town. Other employee benefits (e.g. sick leave, vacation, seniority, etc.) will not accrue during the unpaid leave period.

Section 26: Military Leave

The Town will comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4303 et seq., and 21 V.S.A. §§ 491 et seq. Employees who take military leave subject to the provisions of these laws will be granted leave without pay. At the option of the employee, any paid leave accrued prior to the commencement of the leave may be used.

Section 27: Jury Leave

The Town will compensate full-time employees eight hours per day for workdays served as jurors or compelled witnesses. In accordance with 24 V.S.A. § 499, employees will otherwise be considered

in the service of the Town for purposes of determining seniority, benefits, credit towards vacations, sick leave, and other rights, privileges, and benefits of employment.

When Town employees are called to serve as a witness in a court proceeding due to their status as an employee of the Town, the Town will compensate the employee for the difference between their regular rate of pay and their compensation as a witness. The Town will pay the difference only when the employees' regular rate of pay exceeds their compensation as a witness.

Section 28: Overtime and Compensatory Time Off

In accordance with the Fair Labor Standards Act, the Town compensates all nonexempt employees at the rate of one and one-half hours for each hour actually worked in excess of forty hours in any workweek. Employees employed in executive, administrative or professional capacities as defined by the FLSA are exempt from this requirement.

In lieu of overtime pay, nonexempt employees may accrue compensatory time off ("comp time") subject to the following conditions:

- No worker may work more than forty hours per week under non-emergency conditions. Emergency conditions include storm or natural disaster recovery, as well as winter road clearance.
- Comp time is earned at a rate of one- and one-half hours for each hour worked in excess of forty hours in any workweek.
- An employee may accrue a maximum of forty hours of comp time (40 hours of comp time represents 26.67 hours of actual overtime work). An employee who has accrued 40 hours of comp time will be paid overtime compensation for additional overtime hours of work.
- An employee may, at the Town's discretion, be paid in cash in lieu of comp time.
- An employee receiving payment for accrued comp time will be paid at the regular rate of pay earned by the employee at the time the employee receives such payment.
- Upon termination from employment, an employee will be paid for unused comp time at a rate not less than the average regular rate of pay received by the employee during the last three years of employment or the employee's final regular rate of pay, whichever is higher.

An employee who has accrued comp time and requested use of comp time will be permitted to use such time off within a reasonable period after making the request, if such use does not unduly disrupt the Town's operations. When an employee makes use of comp time, the employee must record that use on his or her timesheet so that it can be accurately charged to the employee's comp time balance.

Section 29: Employment Discrimination

Vermont and federal law prohibit employment discrimination or retaliation based on race, color, religion, sex, or national origin, sex or age, or against a qualified individual with a disability with respect to all employment practices. Vermont law also prohibits discrimination based on sexual orientation, ancestry, HIV status, and place of birth. It is also unlawful to retaliate against employees or applicants who have alleged employment discrimination.

Employees are encouraged to bring any complaints alleging unlawful discrimination to the attention of the Selectboard, who will arrange a meeting to discuss the matter. The meeting will take place as soon as reasonably possible, but in no case later than seven calendar days from receipt of notification. The Selectboard or its designee will then have an additional fifteen calendar days in which to conduct an investigation and to notify the aggrieved party of its decision.

Section 30: Sexual Harassment

Sexual harassment in the workplace is illegal under federal and Vermont law and is strictly prohibited. The Town is committed to providing a workplace free from this unlawful conduct. All employees have the right to work without being subjected to insulting, degrading or exploitative treatment on the basis of their gender. It is against the policies of the Town for any individual, male or female, to sexually harass another individual in the workplace. In accordance with 21 V.S.A. § 495h, the Town has adopted the following sexual harassment policy. All employees are required to read this policy before signing the employee acknowledgement form.

Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- submission to that conduct is made either explicitly or implicitly a term or condition of employment;
- submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or
- the conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Examples of sexual harassment include, but are not limited to, the following when such instances or behavior come within one of the above definitions:

- either explicitly or implicitly conditioning any term of employment (e.g., continued employment, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
- touching or grabbing a sexual part of an individual's body;
- touching or grabbing any part of an individual's body after that party has indicated, or it is known, that such physical contact was unwelcome;
- continuing to ask an individual to socialize on or off-duty when that person has indicated he/she is not interested;
- displaying or transmitting sexually suggestive pictures, objects, cartoons or posters if it is known or should be known that the behavior is unwelcome;
- continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;
- referring to or calling a person a sexualized name if it is known or should be known that the person does not welcome such behavior;
- regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of a person if it is known or should be known that the person does not welcome such behavior;
- retaliation of any kind for having filed or supported a complaint of sexual harassment (e.g., ostracizing the person, pressuring the person to drop or not support the complaint, adversely altering that person's duties or work environment, etc.);

- derogatory or provoking remarks about or relating to an employee's sex;
- harassing acts or behavior directed against a person on the basis of his or her sex;
- off-duty conduct which falls within the above definition and affects the work environment.

It is also unlawful to retaliate against employees for filing a complaint of sexual harassment or for cooperating in an investigation of sexual harassment.

Any individual who believes that she or he has been the target of sexual harassment, or who believes she or he has been subjected to retaliation for having brought or supported a complaint of harassment, is encouraged to directly inform the offending person or persons that such conduct is offensive and must stop.

Any employee who wishes to report sexual harassment should contact the Chair of the Selectboard (or Vice-Chair if the Chair is not available).

Once the Town receives a complaint of sexual harassment, it will take all necessary steps to ensure that the matter is promptly investigated and addressed. If sexual harassment is found to have occurred, the Town will take appropriate action, ranging from a verbal warning up to and including dismissal.

Complaints of sexual harassment or retaliation may also be filed with the following agencies:

Vermont Attorney General's Office
Civil Rights Unit
109 State Street
Montpelier, VT 05609-1001
Tel: (802) 828-3171 (voice/TODD)

Equal Employment Opportunity Commission
1 Congress Street
Boston, MA 02114
Tel: (617) 565-3200 (voice), (617) 565-3204 (TODD).

These agencies may conduct impartial investigations, facilitate conciliation, and, if they find that there is probable cause or reasonable grounds to believe sexual harassment occurred, they may take a case to court.

Section 31: Employee Discipline

The Town of Middletown Springs has adopted a progressive discipline process to identify and address employee and employment related problems. The Town's progressive discipline process applies to any and all employee conduct that the Town in its sole discretion, determines must be addressed by discipline.

The progressive discipline process does not apply to elected officers and their statutory assistants. However, an elected officer may choose to follow the requirements of this policy for discipline and termination of his or her statutory assistants. A statutory assistant means an individual appointed

to his or her position by an elected officer of the Town having express statutory authority to appoint an assistant. Statutory assistants include the assistant clerk and the assistant treasurer.

Under the town's progressive discipline process, an employee may be subject to disciplinary action, up to and including termination, for violation of the provisions of this personnel policy and/or failure to maintain an acceptable level of performance. The Town may take prior disciplinary action into consideration when disciplining or terminating an employee. Violations of different rules may be treated as repeated violations of the same rule for purposes of progressive discipline.

Most often, employee conduct that warrants discipline results from unacceptable behavior, poor performance, or violation of the Town's policies, practices, or procedures. However, discipline may be issued for conduct that falls outside of those identified areas. The Town also reserves the right to impose discipline for off-duty conduct that adversely impacts the legitimate interests of the Town. The Town reserves the right in its sole discretion to bypass progressive discipline and to take whatever action it deems necessary to address the issue at hand. This means that more or less severe discipline, up to and including termination, may be imposed in a given situation at the Town's sole discretion.

The Town also retains the right to unilaterally eliminate positions or reduce the work hours of a position or positions due to economic conditions, shortage of work, organizational efficiency, changes in departmental functions, reorganization or reclassification of positions resulting in the elimination of a position or for other related reasons.

Probationary employees are not subject to the Town's progressive discipline process. Notwithstanding any other provision of this policy, an employee terminated during the probationary period will have no right to appeal such termination.

The Town will normally adhere to the following progressive disciplinary process, but reserves the right to bypass any or all steps of progressive discipline when it determines, in its sole discretion, that deviation from the process is warranted: (1) verbal warning; (2) written warning; (3) suspension; and (4) termination.

Employees are prohibited from engaging in conduct listed below and may receive discipline, up to and including termination, for doing so. This list has been established to provide examples of behavior that could warrant a range of disciplinary sanctions. Appropriate levels of discipline may be based on the severity of employee conduct. This list is not exhaustive.

- Refusing to do assigned work or failing to carry out the reasonable assignments of one's immediate supervisor (as defined in Section 6).
- Being inattentive to duty, including sleeping on the job.
- Falsifying a time card or other record or giving false information to anyone whose duty is to make such record.
- Being repeatedly or continuously absent or late, being absent without notice or satisfactory reason or leaving one's work assignment without appropriate authorization.
- Conducting oneself in any manner that is offensive, abusive or contrary to reasonable community standards and expectations of public employees.
- Engaging in any form of harassment including sexual harassment.

- Misusing, misappropriating, or willfully neglecting Town property, funds, materials, equipment or supplies.
- Unlawfully distributing, selling, possessing, using or being under the influence of alcohol or drugs when on the job or subject to duty.
- Fighting, engaging in horseplay or acting in any manner which endangers the safety of oneself or others. This includes acts of violence as well as threats of violence.
- Stealing or possessing without authority any equipment, tools, materials or other property of the Town or attempting to remove them from the premises without approval or permission from the appropriate authority.
- Marking or defacing walls, fixtures, equipment, tools, materials or other Town property, or willfully damaging or destroying property in any way.
- Willful violation of Town rules or policies.

Section 32: Employee Termination Process

The Town of Middletown Springs has adopted an employment termination process. Most often, employee conduct that warrants termination results from unacceptable behavior, poor performance, or violation of the Town's policies, practices, or procedures. However, termination may result from conduct that falls outside of those identified areas. The Town need not utilize this termination process but may take whatever action it deems necessary to address the issue at hand.

The Town also retains the right to unilaterally eliminate a position and thus terminate employment or reduce the work hours for some or all employees due to economic conditions, shortage of work, organizational efficiency, changes in departmental functions, reorganization or reclassification of positions resulting in the elimination of a position or for other related reasons. In such case, this termination process does not apply.

Probationary employees are not subject to the Town's termination process. Notwithstanding any other provision of this policy, an employee terminated during the probationary period will have no right to appeal such termination.

An employee being considered for termination will be provided with a written notice. The notice will contain a brief statement of the reasons termination is being considered and the date, time and place of a pre-termination meeting with the employee's supervisor.

At the pre-termination meeting, the employee will be afforded an opportunity to present the employee's response to the reasons for termination. If the employee declines to attend the pre-termination meeting, the employee may submit written response to the pre-termination notice not later than the scheduled date of the meeting.

Within seven days of the date of the meeting, the supervisor will provide the employee with a written notice informing the employee whether he/she has been terminated. If the employee has been terminated, the notice will provide the general reasons, therefore.

Section 33: Severability

If any provision of this personnel policy or the application hereof to any person or a circumstance(s) is held invalid, this invalidity does not affect other provisions or applications of the personnel rules which can be given effect without the invalid provision or application. For this purpose, this personnel policy is severable.

Addendum A: Personnel Acknowledgement

PERSONNEL ACKNOWLEDGEMENT

I, _____, acknowledge that:

- A. I received a copy of the Town's personnel policy on _____;
- B. I have been given an opportunity to ask questions about said policy and I have been provided with satisfactory information in response to my questions;
- C. I understand that the language used in this personnel policy is not intended to create, nor should it be construed to create, a contract of employment between myself and the Town;
- D. I acknowledge that the Town reserves the right to add, amend or discontinue any of the provisions of this policy for any reason or none at all, in whole or in part, at any time, with or without notice, by majority vote of the Selectboard;
- F. I acknowledge that I understand the Town's personnel policy and I agree that I will comply with all of its provisions.

Employee's Signature

Date

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of April 28, 2022

- Heather Grier, Chair
- Terry Redfield, Vice Chair
- Patty Kenyon, Clerk
- Neil Russell
- Robin Chesnut-Tangerman

Town of Middletown Springs Drug & Alcohol Policy for CMV Operators [2022]

Introduction

This policy applies to employees and prospective employees of The Town of Middletown Springs who operate commercial motor vehicles (CMVs) or who will operate CMVs if they are hired, transferred or promoted. Employees and prospective employees are not subject to this policy by virtue of holding a CDL unless their job duties may require them to operate a CMV.

All other municipal employees are subject to the provisions of the municipality's personnel policy regarding alcohol and drug use and testing, if applicable.

The policy was developed based on the requirements articulated by the U.S. Department of Transportation (DOT) in Title 49, of the Code of Federal Regulations (CFR).

This personnel policy does not constitute a contract of employment. Employment with Town of Middletown Springs is ***at will*** and not for any definite period or succession of periods of time. The Town or the employee may terminate employment at any time, with or without notice. The selectboard reserves the right to amend any of the provisions of this personnel policy for any reason and at any time, with or without notice.

Section 1: Applicability

This policy applies to all Town of Middletown Springs employees and prospective employees who operate commercial motor vehicles (CMVs) while engaged in any municipal business. This policy supersedes any provisions in the town's personnel policy regarding the consequences of the possession or use of drugs and alcohol as they pertain to CMV operators.

For purposes of this policy, *Commercial motor vehicle or CMV* means a motor vehicle or combination of motor vehicles as follows:

- Any single vehicle with a gross vehicle weight rating (GVWR) of 26,001 pounds or more.
- A combination vehicle with a gross combination weight rating (GCWR) of 26,001 or more pounds, provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.
- A vehicle designed to transport 16 or more passengers (including the driver).
- Any size vehicle which requires hazardous material placards or is carrying material listed as a select agent or toxin in 42 CFR part 73.

Individuals operating the above vehicles must have a valid commercial driver's license (CDL). Note that emergency vehicles (e.g. fire apparatus are not CMVs).

Each employee who is subject to this policy is required to sign an acknowledgement that he or she has been provided a copy of this policy. This acknowledgement will be maintained in the town's personnel files as part of the driver qualification file. An acknowledgement form is included as Appendix C.

Given the varied nature of municipal needs, employees who are employed to operate CMVs have the potential to serve in safety-sensitive functions during any part of their job. Therefore, employees are subject to this policy at all times while they are actively working and during periods when they may be called into work (e.g. to respond to weather-related incidents, respond to emergency situations, etc.). Safety-sensitive functions and other terms are defined in Appendix A: Definitions.

See also Town of Middletown Springs Personnel Policy Section 12.

Section 2: Responsibility for Employee Information

The Town of Middletown Springs has assigned the Town Clerk as the individual who can provide employees with information regarding this Drug & Alcohol Policy and answer related questions on the pertinent issues. Employees may also obtain information about applicable Federal regulations from 49 CFR. Sources of information are provided in Appendix B of this policy.

Section 3: Prohibited Conduct

Conduct listed in this section is prohibited.

- Having a verified positive, adulterated or substituted drug test result.
- Performing safety-sensitive functions after notification of a verified positive, substituted or adulterated drug test result or an EBT alcohol test result indicating a measured alcohol concentration of 0.02% or greater, regardless of when the drug or alcohol was ingested and regardless of whether or not the driver is under the influence of alcohol or using drugs, as defined in federal, state or local law.
- Reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.
- Consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. An on-call employee who has consumed alcohol must acknowledge the use of alcohol at the time that he/she is called to report for duty.
- Consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- Misusing or being impaired by authorized or prescribed use of drugs or over-the counter medications which may affect work performance or pose a danger to the safety of the driver or to others. Drivers are required to inform the employer's designated representative of any therapeutic drug use that has the potential to impact the safe operation of equipment or motor vehicles.

In cases where prescribed medication labeling suggests that machinery operation or driving may be compromised in any way, the driver shall obtain written authorization from the prescribing physician indicating that the driver is able to safely operate a CMV while using the substance. This must be provided to the municipality prior to operation of said CMV while using the prescribed substance(s).

Reporting to work or remaining on duty requiring the performance of safety sensitive duties while having an alcohol concentration of 0.02% or greater regardless of when the alcohol was consumed.

- Consuming alcohol for eight (8) hours following involvement in an accident or before submitting to any required post-accident drug/alcohol testing, whichever occurs first.
- Engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace including municipal premises, vehicles, while in uniform or while on municipal business.
- Refusal to submit to alcohol or drug testing, as defined in Section 4, below.

Section 4: "Testing Refusal" Defined

Under federal law, a test refusal is considered as a positive test and has the same consequences. An employee or prospective employee is considered to have refused a test when s/he does any of the following:

- Fails to appear for any test within a reasonable time, as determined by the employer or testing pool administrator, after being directed to do so by the employer;
- Fails to remain at the testing site until the testing process is complete;
- Fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;
- In the case of an observed collection in a drug test, fails to permit the observation or monitoring of the collection of a specimen;
- Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails to provide an adequate amount of saliva or breath for any alcohol test required, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second test that the employer or collector has directed the employee to take;
- Fails to undergo a medical examination or evaluation, as directed by the medical review officer (MRO) as part of the verification process, or as directed by the DER as part of the "shy bladder" procedures;
- Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process);
- If the MRO reports that there is verified adulterated or substituted test result.

Section 5: Testing

All testing and specimen collection prescribed under this policy will be done in accordance with federal requirements. Prescribed testing includes: pre-employment, random, reasonable suspicion, post-accident, return to duty, and follow-up, if applicable.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner, and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

Section 5a: The Drug Testing Process

The drug testing process will screen for drugs including marijuana, cocaine, opioids, amphetamines, and phencyclidine. The use of certain over-the-counter medications and other substances may result in a positive test.

After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection procedure. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a DHHS certified laboratory.

An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

The test results from the DHHS certified laboratory will be reported to a Medical Review Officer (MRO). The MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a verified positive, substituted, or adulterated test result. The MRO will:

- Attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result.
- Review any medical history and/or medical records that have been offered by the employee to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be confirmed as a verified positive or a refusal to test and reported to the Town of Middletown Springs Designated Employer Representative (DER). If a legitimate explanation is found, the MRO will report the test result as negative to the DER and no further action will be taken. If the test is invalid without a medical explanation, a retest will be conducted under direct observation.

Any covered employee who questions the results of a required drug test performed under this policy may request that the split specimen be tested. The employee's request for a split specimen test must be made to the MRO within 72 hours of notice of the original specimen verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts beyond the control of the employee.

The original collected urine specimen is split into 2 specimens (primary specimen and split specimen) prior to testing, expressly for this purpose. The split specimen test must be conducted at a second DHHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split specimen that was provided by the employee at the same time as the primary specimen. The method of collecting, storing, and testing the split specimen will be consistent with the procedures set forth in 49 CFR Part 40, as amended.

Any covered employee, who elects to have a split specimen tested, agrees to fully reimburse the municipality for all costs associated with the testing. Reimbursement may be recouped via payroll deduction, or any other mutually agreeable method(s).

- If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct a retest of the employee under direct observation. The retest must occur as quickly after notification as possible.
- The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen tests negative, the split specimen will be discarded. If the primary specimen tests positive, the split specimen will be retained for testing if so requested by the employee through the MRO. If the primary specimen is positive, both the primary and split specimens will be retained in frozen storage for one year.

Section 5b: Observed Collections

Consistent with 49 CFR Part 40, collection under direct observation by a person of the same gender with no advance notice will occur in any of the following circumstances:

- The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the municipality that there was not an adequate medical explanation for the result;
- The MRO reports to the municipality that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- The test is a return-to-duty test or a follow-up test;
- The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- The temperature of the original specimen was out of range; or
- The original specimen appeared to have been tampered with.

Section 5c: The Alcohol Testing Process

Tests for breath alcohol concentration will be conducted by a trained Breath Alcohol Technician (BAT) using a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT).

If the initial test results indicate that alcohol is present, a confirmatory test will be conducted at least fifteen minutes after the completion of the initial test and will be performed by a trained BAT using a NHTSA-approved EBT. The EBT will identify each test with a unique sequential

identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the testing, all results, and to attribute the test to the correct employee.

The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee, to maintain the integrity of the alcohol testing procedures and ensure the validity of the test result. An employee who has a confirmed alcohol concentration of 0.04% or higher will be considered to have a positive alcohol test and will be in violation of this policy. The consequences of a positive alcohol test are described in Section 6: Consequences of a Positive Test.

An employee undergoing alcohol testing who does not to provide a sufficient amount of breath to permit a valid breath test will be directed to obtain an evaluation within 5 days, from a licensed physician who has expertise in the medical condition raised by the employee's failure to provide a sufficient specimen. The results of this evaluation will be reviewed by the MRO to determine the result of the test.

Even though an employee who has a confirmed alcohol concentration of 0.02% to 0.039% is not considered to have had a positive test, the employee shall still be removed from safety-sensitive duties for twenty-four hours.

Subsequent to the required 24-hour removal, the employee will:

- Meet with town Road Foreman or Selectboard liaison to the Highway Department to review the need to avoid alcohol use from any source during or proceeding work hours.
- If the employee has an alcohol test result of 0.02% to $\leq 0.039\%$ two or more times within a six month period, the employee will again meet with a municipal representative from the list above to review the need to avoid alcohol use. The employee will be provided with contact and related information for the EAP program (currently Invest EAP). There is no requirement that the employee access those services.
- An alcohol concentration of less than 0.02% will be considered a negative test.

The municipality affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not affect the test result will not result in a cancelled test.

Section 5d: Pre-employment Testing

When an individual applies to work for the town in a position that involves the operation of a CMV, or when a municipal employee is under consideration for a position that involves the operation of a CMV, that person will be required to undergo pre-employment urine **drug** testing. All offers of employment and offers for transfer for covered positions shall be conditional upon the applicant passing the drug test. Pre-employment testing must be completed **prior** to the individual working in the new position.

Pre-employment drug testing will be accomplished by providing advance notice of the test schedule and location to the position applicant. The length of the advance notice period will be kept as short as is reasonably feasible to coordinate and complete the test.

If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. Prior to future consideration for employment performing safety sensitive duties, the municipality must receive evidence from a substance abuse professional that meets with the requirements 49 CFR part 40 as amended, regarding the absence of drug dependency. A negative pre-employment drug test will also be required.

Any applicant who fails a pre-employment drug test will be provided the results of the test along with the current Invest EAP brochure. This serves to provide the individual with information about substance abuse treatment opportunities.

When an existing employee is being placed, transferred, or promoted into a position that is covered by this policy and that person submits a drug test with a verified positive result, the employee may be subject to disciplinary action as outlined in the municipal personnel policies. That employee will also

be eliminated from consideration for the position which triggered the need for the pre-employment test.

If a pre-employment/pre-transfer test is canceled for any reason, the applicant will be required to take and pass a pre-employment drug test before the individual is placed into a covered CDL position or performs safety sensitive duties.

FMCSA Clearinghouse

Effective January 6, 2020 in accordance with 49 CFR, all drivers shall be subjected to a query of the FMCSA Clearinghouse prior to employment as well as yearly throughout the driver's employment with this company. This is an employer responsibility.

Drivers should also note that the following information will be reported to the Clearinghouse by both the Medical Review Officer, the Consortium/TPA and/or the employer. Drivers who fail to provide the necessary authorization to complete the initial or annual query will be subject to termination.

- A verified positive, adulterated, or substituted drug test result;
- An alcohol confirmation test with a concentration of 0.04 or higher;
- A refusal to submit to a drug or alcohol test;
- An employer's report of actual knowledge, as defined at 49 CFR § 382.107;
- On -duty alcohol use pursuant to 49 CFR § 382.205;
- Pre-duty alcohol use pursuant to 49 CFR § 382.207;
- Alcohol use following an accident pursuant to 49 CFR § 382.209;
- Drug use pursuant to 49 CFR § 382.213;
- SAP's report of the successful completion of the return-to-duty process;
- A negative return-to-duty test; and,
- An employer's report of completion of follow-up testing.

Section 5e: Random Testing

All municipal CDL drivers are placed in the VLCT PACIF-sponsored Drug & Alcohol Testing Consortium that is operated by the third party administrator, Occupational Drug Testing, LLC

(ODT). These employees are subject to random, unannounced testing. There is no discretion on the part of the employer or supervisor in the selection and notification of the individuals who are to be tested. The selection of employees is made by a scientifically valid method of randomly generating an employee identifier from the pool of covered employees.

The dates for administering unannounced testing are randomly selected each quarter, with a minimum percentage of the pool's drivers selected for drug testing, alcohol testing, or both as required by Federal regulations and updated each calendar year.

Random drug tests can be conducted at any time during an employee's shift. Random alcohol tests can be performed just before, during, or just after the performance of a safety-sensitive duty. Employees are required to proceed immediately to the collection site or make themselves immediately available to collectors when they notified that they have been selected for testing.

Section 5f: Reasonable Suspicion Testing

All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when there is a reasonable suspicion to believe that drug or alcohol use is occurring, has recently occurred, or that

the person is under the influence of drugs or alcohol. "Reasonable suspicion" shall mean that there is objective evidence, based upon specific, contemporaneous, describable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.

Reasonable suspicion drug test referrals will only be made by a supervisor or other designated individual with employee monitoring and assignment responsibilities who has received "reasonable suspicion training" in accordance with FMCSA regulations. The training ensures that supervisors or other designated employees with similar responsibilities have the skills and knowledge to objectively detect the signs and symptoms of drug and alcohol use in employees covered by this policy.

A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

The Town of Middletown Springs shall be responsible for transporting the employee who will be tested to a suitable testing site identified by ODT. Transport shall include travel to and from the location and to the individual's residence, as they should not be permitted to work when they may be under the influence of a drug or alcohol.

Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. An employee who refuses an instruction to submit to a reasonable suspicion drug/alcohol test shall not be permitted to finish his or her shift and will be subject to other employment consequences. Failure to submit to a reasonable suspicion test is prohibited conduct (test refusal), the consequences of which are outlined in Section 6: Consequences of a Positive Test.

A written record of the observations that led to a reasonable suspicion drug/alcohol test shall be prepared and signed by the supervisory individual making the observation. This record shall be

prepared prior to the release of the test results. This written record shall be submitted to the Town Clerk.

Section 5g: Post Accident Testing

All covered employees will be required to undergo post-accident urine and breath testing if they are involved in an accident with a CMV that meets the criteria outlined in the following chart:

If the accident involved any of the following:	Qualifying event: Was a citation issued to the CMV driver?	Must test be performed by employer?
Human fatality	YES	YES
Human fatality	NO	YES
Bodily injury with immediate medical treatment away from the scene.	YES	YES
Bodily injury with immediate medical treatment away from the scene.	NO	NO
Disabling damage to any motor vehicle requiring tow away.	YES	YES
Disabling damage to any motor vehicle requiring tow away.	NO	NO

All post-accident drug and alcohol testing should be completed within 2 hours of the accident.

If an alcohol test required by this section is not administered within two hours following the accident, the municipality will document and maintain a record stating the reason(s) why the test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the municipality will cease attempts to administer an alcohol test and will document the conditions that led to the time delay and failure to test.

If a drug test required by this section is not administered within 32 hours following the accident, the municipality will cease attempts to administer a controlled substances test and will document and maintain a record stating the reasons the test was not given within the required timeframe.

Section 6: Consequences of a Positive Test

The medical review officer will report positive test results to the DER only after the verifying the test results as outlined in 49 CFR, Part 40 as amended. When the DER is notified of this positive test result, the employee will be immediately suspended from operating CMVs and other safety-sensitive duties for the municipality and will be referred to a Substance Abuse Professional (SAP) for substance abuse assessment and/or treatment.

Any employee who has an initial positive test and has the split sample tested and obtains a negative result will immediately be permitted to return to their normal job duties.

An employee who provides written documentation from an SAP that substance abuse treatment has been satisfactorily completed within the 3-month suspension period must fulfill all return to duty testing requirements in Section 7: Return to Duty Testing prior to performing any safety-sensitive duties. Follow-up testing will also be required as directed by the SAP.

An employee who has a second positive test after completing return to duty testing may be terminated.

Section 7: Return to Duty Testing

Covered employees having a positive test will not be permitted to return to duty (to safety sensitive functions) until after a substance abuse professional has determined that the employee has successfully complied with prescribed education and/or treatment. The SAP will authorize the return to duty testing only when the employee is known to be drug and alcohol-free and there is no risk to public safety. The

SAP will provide written documentation that the treatment has been completed and that the employee may undergo return to duty testing. The employee will then be allowed to take a return-to-duty test, as directed by the treating SAP.

The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before they may return to duty. For an initial positive drug test, a return to duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test, a return to duty alcohol test is required and a drug test is allowed. Return to duty testing MUST be performed under direct observation.

Section 8: Follow-Up Testing

After satisfactory completion of return to duty testing, the driver is required to submit to at least 6 follow up tests during the first 12 months after resuming safety sensitive duties. Follow-up testing may be required for up to 60 months unless the substance abuse professional determines that testing is no longer warranted. The number and frequency of follow-up tests

will follow the written guidance provided by the treating SAP. All follow-up tests are unannounced and may include testing for drugs and/or alcohol.

Follow-up alcohol testing will be conducted only when the driver is performing or just before performing safety sensitive functions, or just after the driver has ceased performing safety-sensitive functions. Follow-up testing **MUST** be performed under direct observation.

Follow-up testing is separate from and in addition to random, post-accident, reasonable suspicion, and return to duty testing.

Section 9: Employee Information

Employees are encouraged to seek information regarding the effects of alcohol and controlled substances and their health, employment, and personal life. Such information is available at:

<http://www.samhsa.gov/>

<http://www.fmcsa.dot.gov/rules-regulations/topics/drug/drug.htm>

<http://www.investeap.org/>

<http://www.dot.gov/odapc/employee-handbook-english>

The Drug & Alcohol Policy for Commercial Motor Vehicle Operators is hereby adopted by the Selectboard of the Town of Middletown Springs Vermont on the **28th day of April 2022** and is effective as of this date until amended or repealed.

APPENDIX A: Definitions

Accident means an occurrence associated with the operation of a CMV, if as a result:

- An individual dies, or
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident, or,
- One or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle. For purposes of this definition, ***disabling damage*** means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include:
 - damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, or
 - tire disablement without other damage even if no spare tire is available, or
 - damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Adulterated specimen is a specimen that has been altered, as evidenced by test results showing either a substance that is not normally found in that type of specimen or showing an abnormal concentration of a substance that is normally found in that specimen.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device (EBT).

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce, to transport passengers, or property if the motor vehicle:

- Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
- Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Covered Employee means an employee who performs a safety-sensitive function including an applicant or transferee who will be hired to perform a safety-sensitive function. Employees who operate CMVs are considered to be performing safety-sensitive functions.

Medical Review Officer (MRO) means a licensed physician (medical doctor or doctor of osteopathy) who is responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history and any other relevant bio-medical information.

Negative test result for a drug test means a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02% BAC is a negative test result.

Negative Dilute is a drug test specimen showing a creatinine level of greater than 5mg/dl and less than 20 mg/dl.

Non-negative test result is a test result found to be adulterated, substituted, invalid, or positive for a drug or drug metabolites. Non-negative results are considered a positive test or a refusal to test if the MRO cannot determine a legitimate medical explanation for the result or the refusal.

Observed Collection means the donor will provide his or her sample under the direct observation of either a collector or another individual of the same gender. The donor must raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that he/she does not have a prosthetic device. After the observer has determined that the donor does not have a prosthetic device, the donor may return his/her clothing to its proper position for observed urination.

Positive test result for a drug test means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, Section 40.87 as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04% BAC or greater. Any positive test result reported to the DER by the medical review officer is verified by the MRO prior to reporting.

Primary specimen. In drug testing, the primary specimen is the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

Prohibited drug means marijuana, cocaine, opiates, amphetamines, phencyclidine, or MDMA (ecstasy) at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Safety-sensitive function includes the timeframe that begins when a driver starts work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Shy Bladder refers to any time a safety-sensitive employee is unable to provide a 45ml. sample of urine in a single void within a three hour time period.

Split specimen. In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

Substance Abuse Professional (SAP) means a licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Verified negative test means a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established in DOT Rule 49 CFR Part 40 Section 40.87 as revised.

Validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

APPENDIX B: Contacts & Information

DISA (formerly OCCUPATIONAL DRUG TESTING, LLC)
Manchester, NH 800-211-4469

VLCT/PACIF
Risk Management Services
89 Main St. Montpelier, Vermont 05602
802-229-9111

INVEST EAP (SAP services)
108 Cherry Street, Suite 203
Burlington, Vermont 05401
MAIN OFFICE: 888.392.0050
FAX: 802.863-7515
staff@investeap.org

Employee Access to Information

49 CFR part 40 and 49 CFR part 382 must be available upon request to covered employees and representatives of employee organizations. 49 CFR part 40 is accessible on line at <http://www.dot.gov/ost/dapc>, by fax on demand at 1-800-225-3784 requesting document 151, by phone at 1-866-512-1800, or by writing to U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 400 Seventh Street SW, Room 10403, Washington, D.C. 20590.

APPENDIX C: CMV Drug & Alcohol Testing Policy-Acknowledgement Form

Town of Middletown Springs

I HEREBY ACKNOWLEDGE that I have received a copy of and read and understand my employer's **CMV Drug & Alcohol Testing Policy**. I understand that I must abide by its terms as a condition of employment. I understand that during my employment I may be required to submit to a controlled substances and/or alcohol test based on U.S. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations.

I also understand that refusal to submit to a controlled substances or alcohol test is a violation of DOT regulations and the above referenced policy and may result in disciplinary action, including suspension (with or without pay) or termination of employment for gross and willful misconduct. I further understand the consequences of controlled substances and/or alcohol use as outlined in this policy.

I acknowledge that the provisions of my employer's CDL Drug and Alcohol Policy are part of the terms and conditions of my employment, and that I agree to abide by them.

By signing below, I also acknowledge that I understand the meaning of this form and agree that it will be used to document my understanding of the CDL Drug & Alcohol Testing Policy.

Printed Name of Employee/Applicant: _____

Signature of Employee/Applicant: _____

Employee/Applicant CDL ID # _____

Date: _____

Witness Signature: _____

Date: _____

Original Acknowledgment of Receipt and Understanding will be kept in the Driver's Qualification File. Check here to confirm copy given to employee/applicant.

APPENDIX D: Drug Cutoff & Testing Limits as per DOT Rule 49 CFR Part 40 Section 40.87

Initial test analyte	Initial test cutoff ¹	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) ²	50 ng/mL ³	THCA	15 ng/mL.
Cocaine metabolite (Benzoylecgonine)	150 ng/mL ³	Benzoylecgonine	100 ng/mL.
Codeine/ Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL. 2000 ng/mL.
Hydrocodone/ Hydromorphone	300 ng/mL	Hydrocodone Hydromorphone	100 ng/mL. 100 ng/mL.
Oxycodone/ Oxymorphone	100 ng/mL	Oxycodone Oxymorphone	100 ng/mL. 100 ng/mL.
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamine/ Methamphetamine	500 ng/mL	Amphetamine Methamphetamine	250 ng/mL. 250 ng/mL.
MDMA ⁴ /MDA ⁵	500 ng/mL	MDMA MDA	250 ng/mL. 250 ng/mL.

¹For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

²An immunoassay must be calibrated with the target analyte, Δ-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

³*Alternate technology (THCA and Benzoylecgonine):* When using an alternate technology initial test for the specific target analytes of THCA and Benzoylecgonine, the laboratory must use the same cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100ng/mL for Benzoylecgonine).

⁴Methylenedioxymethamphetamine (MDMA).

⁵Methylenedioxyamphetamine (MDA).

NOTE: These cutoff limits may be subject to periodic revision by DOT.

[65 FR 79526, Dec. 19, 2000, as amended at 75 FR 49862, Aug. 16, 2010; 77 FR 26473, May 4, 2012; 82 FR 52244, Nov.13, 2017]

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of April 28, 2022

- Heather Grier, Chair
- Terry Redfield, Vice Chair
- Patty Kenyon, Clerk
- Neil Russell
- Robin Chesnut-Tangerman

Policy on Employees and Public Officials Working Off-Site [2018]

Town of Middletown Springs

The Town of Middletown Springs ("the Town") has many work functions, for both its employees and its elected officials, that often lead to work being conducted in locations other than Town facilities. The Town has therefore created this policy to set forth the mutual responsibilities between the Town and its employees and officials with regards to off-site work.

Scheduled On-Site Working Hours

Some town functions are scheduled so that the community members can have expectation of contact with employees and officials at set times. For instance, the Town Clerk, Library, and Transfer Station have regular posted hours of operation; the Select Board and other bodies have regularly-scheduled meetings; the Highway crew has standard (non-emergency) hours of operation. All employees and officials subject to regular schedules must be at their workplace during normal hours of operation, as laid out in the Town's Personnel Policy.

For the Highway crew, "workplace" is defined as any Town road or property to which the Road Foreman has assigned himself and/or his crew.

The normal hours of operation for any Town function can be amended in consultation with the Select Board, who will deliberate any changes at a regularly scheduled public board meeting.

Work Hours and Compensation

The amount of time the employee is expected to work (per day, per pay period, or per year) will not change based on the location of work being conducted. The rate of pay for hourly employees is the same regardless of location. All positions that carry fixed annual stipends, such as most elected positions, confer no additional pay for work conducted off-site.

Equipment/Tools

The Town will, in most cases, provide no tools or equipment for the employees to perform his/her duties at other locations. All employees are responsible for providing all computer hardware, computer software, phone lines, email, voice-mail, and other applicable equipment that are necessary to proper off-site function. All of these are the personal property or personal business arrangements of the employee or officer, and are not covered by Town insurance. No Town contribution to their purchase or maintenance will be allowed.

The exceptions to this are for work functions that are by necessity conducted in remote locations: for instance, Listers' property evaluations; or Highway inventories of roads, bridges and culverts. For these functions, employees or officials may use Town-owned equipment such as laptop or tablet computers. Such equipment is covered by Town property insurance, and any damage or loss should be reported as soon as possible to the Town Clerk. All Town equipment must be returned to the Town Office if so requested by the Select Board, or at termination of employment or elective term.

The use of Town equipment, software, and data supplies when provided by the Town for use at the remote work location is limited to authorized persons and for purposes relating to Town business. The Town will provide for repairs to Town equipment.

Off-Site Workspace Conditions

Any employee or officer working off-site shall maintain any workspace in a safe condition, free from hazards and other dangers to people and equipment.

Any Town materials taken home should be kept in the designated work area at home and not be made accessible to others. All expectations of privacy and confidentiality that would pertain to work within Town sites are equally expected when working off-site. This includes telephone and data privacy, and all forms of information protection. When working online, data security protocols (such as password protection, or using HTTPS web connections for webmail or other information sharing) shall be followed.

No off-site work location may be used for meeting patrons, taxpayers, or other persons requesting service. All official patron contact shall take place at Town facilities. However, the facts of small-town life are such that informal conversations related to Town functions can take place at any time and location. This policy should not be seen to limit casual contact between employees, officials, and the public; but rather to ensure that normal Town business functions take place in Town-controlled locations.

Documents Taken Off-Site

Documents and other paper materials may be taken off-site for work, with the following understandings:

- If a document is not readily replaceable (such as Town land records or signed forms), the original may not be taken from the Town facility where it normally resides. It is permissible to take copies of such documents for reference.
- If a document is commonly used by multiple users, it is preferable to make a copy for off-site use, so that the original remains on-site for the use of others.
- When copies of documents are taken off-site, care shall be taken to not have sensitive information in view of others, including family members. Such copies should be returned to the Town facility, or destroyed by shredding or fire immediately upon completion of their use, to prevent unauthorized distribution.

- Town facilities should always be the primary repository for any Town records. Under no circumstances shall the single or original copy of materials or records be stored outside Town facilities.

Any e-mail pertaining to the work of an employee or Town official is considered to be the property of the Town, and can be requested by other employees, officials or the public under the conditions outlined by the Vermont Public Records Law (1 V.S.A. §§ 315-320).

Office Supplies

Office supplies will be provided by the Town as needed. Out-of-pocket expenses for other supplies will not be reimbursed unless by prior approval of the employee's manager.

Worker's Compensation

Any work covered by the provisions of Vermont worker's compensation is covered equally at any location during work hours and while performing supervisor-authorized work functions. The Town will continue to be liable for job-related accidents that occur in off-site workspaces during the normal course of work.

The Town assumes no liability for injuries occurring in off-site workspaces outside the normal course of work.

The Town is not liable for loss, destruction, or injury that may occur in or to any off-site working location. This includes family members, visitors, or others that may become injured within or around an employee's or elected official's home.

Income Tax

It will be the employee's or officer's responsibility to determine any income tax implications of maintaining a home office area. The Town will not provide tax guidance nor will the Town assume any additional tax liabilities. Employees and officers are encouraged to consult with a qualified tax professional to discuss income tax implications of off-site work.

Communication

All Town officials must have a personal telephone number and/or e-mail address published in the Annual Report; the Town encourages all employees and officials to have voicemail or a stand-alone answering machine in order to be responsive to community concerns. Town officials and employees are encouraged to maintain an active e-mail address which they check at least once every twenty-four hour period except for times of illness, family emergency, or out-of-town travel.

Conclusion

Nothing in this policy shall be construed to be in conflict with the Town's Personnel Policy. If conflicts between policies are found, the Personnel Policy shall be the guiding document.

If the Select Board has reason to be concerned about the quality, frequency, or conditions of work being conducted off-site, the Board shall have the authority to request that any employee or officer modify her or his off-site work practices.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of March 22, 2018

- Chris Fenton, Chair
- Herb Childress
- Carl Haynes
- Patty Kenyon
- Terry Redfield

Middletown Springs Purchasing Policy (2024)

Purpose

The purpose of this Purchasing Policy is to obtain the highest quality goods and services for town of the Middletown Springs at the lowest possible price, to exercise financial control over the purchasing process, to clearly define authority for the purchasing function, to allow fair and equal opportunity among qualified suppliers, and to provide for increased public confidence in the procedures followed in public purchasing.

Affirmative Action and Local Preference

Whenever possible, qualified small, minority and women-owned businesses shall be included in the solicitation lists for bids or non-bid purchases. If the purchase is federally funded in whole or in part, minority and women owned businesses must be included in the solicitation lists and all other affirmative action requirements outlined in the grant provisions must be followed. The municipality may exercise a preference for local businesses for purchases funded exclusively by the municipality but only if such a preference does not result in unreasonable prices or rates due to a lack of competition. For purchases funded in whole or in part with federal funding the municipality may not exercise a preference for local businesses.

Code of Conduct

Employees, officers, and agents of the municipality involved in the procurement and selection of bids and purchases shall make reasonable efforts to avoid real, apparent, or potential conflicts of interest. No employee, officer or agent of the municipality shall participate in selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- the employee, officer, or agent,
- any member of their immediate family,
- their partner, or
- an organization which employs, or is about to employ, any of the above, has a financial or personal interest in the firm/vendor selected for award.

An employee, officer or agent of the municipality who is involved in the procurement and selection of a bid or purchase and who has a real or apparent conflict of interest must disclose that conflict of interest within the context of a duly warned meeting of the Selectboard / Library Board that occurs before the bid selection or purchase takes place. Such disclosure must be documented in the minutes for that meeting which shall be retained as part of the official record surrounding the bid or purchase.

Officers, employees and agents of the municipality will not solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

Officers, employees and agents who fail to follow the above Code of Conduct shall be sanctioned or disciplined, to the extent permitted by law, for violations of the above standards.

Documentation

Records documenting the procurement process for any Minor or Major purchases, as those terms are defined below, including the reason for the specific procurement method chosen, the basis for the award and contract pricing (showing evidence that the process was fair and equitable), as well as any other significant decisions that were part of the procurement process shall be maintained for a period of at least three years from the date of the submission to the Federal government of the final expenditure report if the purchase or project was funded with federal grants, or until the completion of any litigation, claim, negotiation, audit, or other action involving the records, whichever is longer. Otherwise, records shall be maintained by the municipality in accordance with the retention and disposition schedules as set by the Vermont State Archivist.

Purchasing Authority

Purchasing Agents. The following are designated to act as Purchasing Agents for the municipality: Town Clerk, Town Treasurer, Road Foreman, Library Director. In addition, the Selectboard may designate others to act as purchasing agents.

Purchasing Agents are responsible for ensuring that the best possible price and quality are obtained with each purchase and Purchasing Agents shall review all proposed procurements to avoid unnecessary or duplicative purchases of equipment, supplies and services. Purchasing Agents shall also ensure that competition is not restricted with limits on the geographic location of vendors, with unreasonable requirements or qualifications placed on vendors, or by allowing vendors to be selected who have engaged in noncompetitive pricing practices.

Incidental Purchases. Designated Purchasing Agents may make purchases of up to \$2,000 without prior approval, provided those purchases do not exceed the amount of the budget authorized by the municipality.

Minor Purchases. Designated Purchasing Agents may make purchases with a value between \$2,000 and \$10,000 only with prior approval of the Selectboard or Library Board, as appropriate, and are limited to the amount of the budget authorized by the municipality. Although not required, competitive quotes from at least two vendors should be obtained whenever possible.

Major Purchases. All purchases over \$10,000 require prior approval of the Selectboard or Library Board, as appropriate. The Selectboard or Library Board shall review all proposed procurements to avoid unnecessary or duplicative purchases of equipment, supplies and services. The Selectboard or Library Board shall also ensure that competition is not restricted with limits on the geographic location of vendors, with unreasonable

requirements or qualifications placed on vendors or bidders, or by allowing vendors to be selected who have engaged in noncompetitive pricing practices.

If federal funding is used for purchases between \$10,000 (\$2,000 in the case of construction projects subject to Davis-Bacon requirements) and \$250,000, price or rate quotes must be obtained from two or more qualified sources following the affirmative action provision of this policy and all provisions regarding fair and unrestricted competition.

For all major purchases with a value between \$10,000 and \$250,000 price and rate quotations shall be obtained from at least two qualified vendors to ensure that the municipality has received a fair and reasonable price. Vendors will be selected based on cost, the quality of the goods and services offered, and the ability, capacity, and skill of the vendor demonstrated under prior contracts with the municipality.

Large purchases with a value of \$250,000 or more must follow a sealed bid process as outlined below.

Purchases at or exceeding \$250,000 or construction projects of any value that are funded with federal dollars must follow a sealed bid process as outlined below and follow any procurement guidance as outlined in the grant agreement. In addition, a pricing analysis must be completed by the purchasing agent or a qualified consultant prior to issuing the request for proposal to ensure that there is a reasonable estimate against which to compare bid proposal pricing.

Sealed Bid Process. The sealed bid process shall be initiated by the issuance of a Request for Bids prepared by the Selectboard / Library Board or its designee. Notice of the Request for Bids shall be made by letters to known providers soliciting bid responses, advertisements posted in three public locations within the municipality, and advertisements placed in the Town's named newspaper of record.

Bid Specifications. A list of bid specifications shall be prepared for each purchase of \$250,000 or more, and shall be available for inspection at the municipality office. Bid specifications shall include:

- Bid name.
- Bid submission deadline.
- Date, location, and time of bid opening.
- Specifications for the project or services including quantity, design, and performance features.
- Bond and/or insurance requirements.
- A copy of the proposed contract.
- Any special requirements unique to the project or purchase.
- Delivery or completion date.
- For construction projects, language that sets a requirement for a bid guarantee in the amount of 5% of the bid price from all bidders, as well as performance and payment bonds in the amount of 100% of the contract price from the contractor awarded the bid. If federally grant funded, the bidders must also include costs for

Davis Bacon compliance if that is a requirement of the federal agency providing the funding.

- For construction projects over \$2,000, a statement that contractors will be provided with a copy of the most current wage determination (from the DOL website at <http://www.wdol.gov/dba.aspx>) and must comply with the Davis Bacon Act.
- Language that reserves for the Selectboard or Library Board the right at its sole discretion to reject any and all bids, wholly or in part, to waive any informalities or any irregularities therein, to accept any bid even though it may not be the lowest bid, to call for rebids, to negotiate with any bidder, and to make an award which in its sole and absolute judgment will best serve the municipality's interest. The Selectboard or Library Board reserves the right to investigate the financial condition of any bidder to determine his or her ability to assure service throughout the term of the contract.

Once a Request for Bids has been issued, the bid specifications will be available for inspection at the town office and/or town library.

Bid Submission. All bids must be submitted in sealed envelopes, addressed to the municipality in care of the Selectboard or Library Board as appropriate, and plainly marked with the name of the bid and the time of the bid opening. Bid proposals will be date-stamped on the outside of the envelope immediately upon receipt at the Town Office, whether by mail or in person. Any bid may be withdrawn in writing prior to the scheduled time for the opening of bids. Any bids received after the time and date specified shall not be considered and shall be returned to the bidder unopened.

Bidders shall bid to specifications and any exceptions must be noted by the bidder. A bidder submitting a bid thereby certifies that the bid is made in good faith without fraud, collusion, or connection of any kind with any other bidder for the same work, and that the bidder is competing solely on their behalf without connection with or obligation to any undisclosed person or firm.

Bid Opening. Every bid received prior to the bid submission deadline will be publicly opened and read aloud by the Selectboard or Library Board. The bid opening will include the name and address of bidder; for lump sum contracts, the lump sum base bid and the bid for each alternate; for unit price contracts, the unit price for each item and the total, if stated; and the nature and the amount of security furnished with the bid if required.

Criteria for Bid Selection. In evaluating bids, the Selectboard or Library Board will consider the following criteria:

- Price.
- Bidder's ability to perform within the specified time limits.
- Bidder's experience and reputation, including past performance for the municipality.
- Quality of the materials and services specified in the bid.
- Bidder's ability to meet other terms and conditions, including insurance and bond requirements.
- Bidder's financial responsibility.

- Bidder's availability to provide future service, maintenance, and support.
- Nature and size of bidder.
- Contract provisions that are acceptable to the municipality.
- For construction projects over \$2,000, contractor's indication of acceptance of wages in the current wage determination provided as part of the Request for Bids.
- Any other factors that the Selectboard or Library Board determines are relevant and appropriate in connection with a given project or service.

In addition to the above, in the case of a contract supported by federal funds, the additional criteria shall apply:

- There shall be no preference exercised for local contractors or suppliers.
- Minority and women-owned businesses must be included in the solicitation list for the request for proposal.

The Selectboard / Library Board will not select a bidder who is listed on the Excluded Parties List System website (<https://www.sam.gov>).

Change Orders

If specification changes are made prior to the close of the bid process, the Request for Bids will be amended, and notice shall be sent to any bidder who already submitted a bid, and a new bid process will be initiated. Once a bid has been accepted, if changes to the specifications become necessary, the Selectboard / Library Board will prepare a change order specifying the scope of the change. Once approved, the contractor and an authorized agent of the municipality must sign the change order.

Exceptions

The following exceptions may apply, however there must be written documentation created and maintained that outlines the process and rationale for such exceptions:

Competitive Proposals. If time does not permit the use of sealed bids, or the award will be made on the basis of non-price related factors, a competitive proposal process shall be initiated by the issuance of a Request for Bids (RFB) or Request for Qualifications (RFQ) prepared by the Selectboard / Library Board or its designee that includes the factors that will be used to evaluate and compare the proposals. Bids or qualifications shall be obtained from an adequate number of qualified sources (at least two vendors) to ensure that the municipality has received a fair and reasonable price and all notification and record keeping requirements of the sealed bid process shall be followed. If architectural or engineering services are being solicited, this process should be used with the most qualified firm or individual awarded the bid and price or fees negotiated after the award. If competitive proposals are used, all of the above steps in the sealed bid process should be followed except that: 1) the bid submission need not be sealed; and 2) price will not be the primary factor in the proposal selection.

Sole Source Purchases. If the Selectboard or Library Board determines that there is only one source for a proposed purchase, it may waive the bid process and authorize the purchase from the sole source.

Recurring Purchases. If the total value of a recurring purchase of a good or service is anticipated to be between \$10,000 and \$250,000 during any fiscal year, the price-quote process (outlined in the “Major Purchases” section above) shall be utilized and shall specify the recurring nature of the purchase. If the total value of a recurring purchase of a good or service is anticipated to exceed \$10,000 during any fiscal year, the bid process shall be utilized and shall specify the recurring nature of the purchase. Once a contract has been accepted, all future purchases shall be made from that bidder without necessity of additional bids, until such time as the Selectboard or Library Board votes to initiate a new bid process.

Emergency Purchases. The Selectboard / Library Board may award contracts and make purchases for the purpose of meeting the public emergency without complying with the bid process. Emergency expenditures may include immediate repair or maintenance of municipality property, vehicles, or equipment if the delay in such repair or maintenance would endanger persons or property or result in substantial impairment of the delivery of important municipality services.

Professional Services. The bid process shall not apply to the selection of providers for services that are characterized by a high degree of professional judgment and discretion including legal, financial, auditing, risk management, and insurance services with a value of up to \$50,000 in any fiscal year.

Federally funded non-competitive purchases for \$250,000 or more require a cost analysis to determine the reasonableness of the proposed pricing and should be completed in accordance with the requirements of the federal or state agency issuing the grant funding.

The foregoing Policy is hereby adopted by the Selectboard of Middletown Springs, Vermont, this 12th day of December, 2024, and is effective as of this date until amended or repealed.

Herb Childress, Chair
Terry Redfield, Vice-Chair
Patty Kenyon, Clerk
Carl Haynes
Sean Ruck

Policies Related to Expenditures Drawn from Federal ARPA Funding (2025)

Section 1: Policies specific to the Middletown Springs Public Library construction project

The policies in this document are specific to the Middletown Springs Public Library capital improvement project, as funded through the Vermont Department of Libraries' Capital Projects Program and through the Vermont Division of Buildings and General Services Municipal Energy Resilience Program.

The Department of Libraries' funding is intended to address critical building improvements to ensure Vermonters have continued access to high-speed Internet to directly enable work, education, and health monitoring at their local public libraries. The MERP funding is intended to "avoid, prepare for, minimize, adapt to, and recover from anticipated and unanticipated energy disruptions," and to mitigate the energy burdens on public facilities..

The Department of Libraries' funding for this project has been received from the U.S. Department of the Treasury through the American Rescue Plan Act (ARPA) Coronavirus Capital Projects Fund. To maintain compliance with the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200, and to maintain consistency across project practices, the Town has established these policies specific to the capital improvement projects for the conversion of the former St. Anne Catholic Church into the new Middletown Springs Public Library.

Section 2: Allowable Costs

OVERVIEW. Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart E, defines those items of cost that are allowable, and which are unallowable. The tests of allowability under these principles are:

- the costs must be reasonable;
- they must be allocable to eligible projects under the Capital Projects Fund Program (ARPA/CPF);
- they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and
- they must conform to any limitations or exclusions set forth in these principles or in the ARPA/CPF grant award as to types or amounts of cost items.

The Town of Middletown Springs, and those to whom it grants financial management responsibilities, shall adhere to all applicable cost principles governing the use of federal grants. This policy addresses the proper classification of both direct and indirect charges to ARPA/CPF-funded projects and enacts procedures to ensure that proposed and actual expenditures are consistent with the ARPA/CPF grant award terms and all applicable federal regulations in the Uniform Guidance.

Responsibility for following these guidelines lies with the Town of Middletown Springs Selectboard and Library Board of Trustees, who are charged with the administration and

financial oversight of the ARPA/CPF. Further, all Town employees and officials who are involved in obligating, administering, expending, or monitoring ARPA/CPF grant funded projects should be well versed with the categories of costs that are generally allowable and unallowable. Questions on the allowability of costs should be directed to the Town of Middletown Springs Selectboard and Library Board of Trustees. As questions on allowability of certain costs may require interpretation and judgment, Town personnel are encouraged to ask for assistance in making those determinations.

GENERAL COST ALLOWABILITY CRITERIA. All costs expended using ARPA/CPF funds must meet the following general criteria:

1. Be necessary and reasonable for the proper and efficient performance and administration of the grant program.
2. A cost must be *necessary* to achieve a project object. When determining whether a cost is necessary, consideration may be given to:
 - a. Whether the cost is needed for the proper and efficient performance of the grant project.
 - b. Whether the cost is identified in the approved project budget or application.
 - c. Whether the cost aligns with identified needs based on results and findings from a needs assessment.
 - d. Whether the cost addresses project goals and objectives and is based on program data.
3. A cost is *reasonable* if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. For example, reasonable means that sound business practices were followed, and purchases were comparable to market prices. When determining reasonableness of a cost, consideration must be given to:
 - a. Whether the cost is a type generally recognized as ordinary and necessary for the operation of the Middletown Springs Public Library or the proper and efficient performance of the federal award.
 - b. The restraints or requirements imposed by factors, such as: sound business practices; arm's-length bargaining; federal, state, and other laws and regulations; and terms and conditions of the ARPA/CPF award.
 - c. Market prices for comparable goods or services for the geographic area.
 - d. Whether individuals concerned acted with prudence in the circumstances considering their responsibilities to the Town of Middletown Springs, the Middletown Springs Public Library, its employees, the public at large, and the federal government.
 - e. Whether Middletown Springs Public Library significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the ARPA/CPF award's cost.
4. A cost is *allocable* to the ARPA/CPF award if the goods or services involved are chargeable or assignable to the ARPA/CPF award in accordance with the relative benefit received. This means that the ARPA/CPF grant program derived a benefit in proportion to the funds charged to the program.
 - a. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit.

- b. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized by the ARPA/CPF, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required.
5. A cost is *allowable* if:
 - a. It is authorized and not prohibited under state or local laws or regulations.
 - b. It conforms to any limitations or exclusions set forth in the principles, federal laws, ARPA/CPF award terms, and other governing regulations as to types or amounts of cost items.
 - c. It is consistent with policies, regulations, and procedures that apply uniformly to both the ARPA/CPF federal award and other activities of Middletown Springs Public Library.
 - d. It is accorded consistent treatment. A cost MAY NOT be assigned to a federal award as a direct cost and also be charged to a federal award as an indirect cost. And a cost must be treated consistently for both federal award and non-federal award expenditures.
 - e. It is determined in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in the UG.8.
 - f. It is net of all applicable credits. The term “applicable credits” refers to those receipts or reduction of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to and received by the Town are related to the federal award, they shall be credited to the ARPA/CPF award, either as a cost reduction or a cash refund, as appropriate and consistent with the award terms.
6. All costs must be adequately documented.

DIRECT AND INDIRECT COSTS. Allowable and allocable costs must be appropriately classified as direct or indirect charges. It is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost.

- *Direct costs* are expenses that are specifically associated with a particular ARPA/CPF-eligible project and that can be directly assigned to such activities relatively easily with a high degree of accuracy. Common examples of direct costs include salary and fringe benefits of personnel directly involved in undertaking an eligible project, equipment and supplies for the project, subcontracted service providers, or other materials consumed or expended in the performance of a grant-eligible project.
- *Indirect costs* are (1) costs incurred for a common or joint purpose benefitting more than one project, and (2) not readily assignable to the project specifically benefited, without effort disproportionate to the results achieved. They are expenses that

benefit more than one project or even more than one federal grant. Common examples of indirect costs include utilities, local telephone charges, shared office supplies, administrative or secretarial salaries.

Indirect costs may not be charged by the Town of Middletown Springs or by the Middletown Springs Public Library to these awards.

COST ALLOWABILITY REVIEW PROCESS. Once an expenditure is incurred related to an eligible project, and an invoice or other demand for payment is submitted to the Library, the Middletown Springs Public Library must perform a second review to ensure that actual expenditures comprise allowable costs.

- All invoices or other demands for payment must include a breakdown by cost item. The cost items should mirror those presented in the proposed budget for the project. If an invoice or other demand for payment does not include a breakdown by cost item, the Middletown Springs Public Library will return the invoice to the project manager and/or vendor, contractor, or subrecipient for correction.
- The Middletown Springs Public Library must review the individual cost items listed on the invoice or other demand for payment to determine their allowability and allocability.
- If all cost items are deemed allowable and properly allocable, the Middletown Springs Public Library must proceed through the Organization's normal disbursement process.
- If any cost item is deemed unallowable, the Middletown Springs Public Library will notify the project management and/or vendor, contractor, or subrecipient that a portion of the invoice or other demand for payment will not be paid with ARPA/CPF funds. The Middletown Springs Public Library may in their discretion, and consistent with this policy, allow an invoice or other demand for payment to be resubmitted with a revised cost allocation. If the Town or Library remains legally obligated by contract or otherwise to pay the disallowed cost item, it must identify other funds to cover the disbursement. Middletown Springs Public Library's governing board must approve any allocation of other funds for this purpose.
- The Middletown Springs Public Library must retain appropriate documentation of budgeted cost items per project and actual obligations and expenditures of cost items per project.

Section 3: Management of Real Property, Equipment and Supplies

Any purchase of equipment or real property with ARPA CPF funds must be consistent with the

Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

REAL PROPERTY. Subject to the requirements and conditions set forth in this section, title to real property acquired or improved under the Federal award will vest upon acquisition with the Town of Middletown Springs.

Except as otherwise provided by Federal statutes or the Federal granting agency, real property must be used for the originally authorized purpose as long as it is needed for that purpose. While the property is being used for the originally authorized purpose, the recipient or subrecipient must not dispose of or encumber its title or other interests except as provided by the Federal agency. Easements for utility, cable, and similar services that benefit the real property and are consistent with the authorized use are not considered an encumbrance.

When an appraisal of real property is required and obtained by the recipient or subrecipient, it must be conducted by an independent appraiser (for example, certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient or subrecipient as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601-4655) except as provided in the implementing regulations at 49 CFR part 24, "Uniform Relocation Assistance And Real Property Acquisition For Federal And Federally-Assisted Programs."

When real property is no longer needed for the originally authorized purpose, the Town must obtain disposition instructions from the Federal agency or pass-through entity. The instructions must specify one of the following disposition methods:

- (1) ***Retain title after compensating the Federal agency.*** When the recipient or subrecipient retains title to the property, it must pay the Federal agency an amount calculated by multiplying the percentage of the Federal agency's contribution towards the original purchase (and costs of any improvements) by the current fair market value of the property. However, in situations where the recipient or subrecipient is disposing of real property acquired or improved with the Federal award and acquiring replacement real property under the same Federal award, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
- (2) ***Sell the property and compensate the Federal agency.*** When a recipient or subrecipient sells the property, it must pay the Federal agency an amount calculated by multiplying the percentage of the Federal agency's contribution towards the original purchase (and cost of any improvements) by the proceeds of the sale after deducting any actual and reasonable expenses paid to sell or fix up the property for sale. When the Federal award has not been closed out, the net proceeds from the sale may be offset against the original cost of the property. When directed to sell the property, the recipient or subrecipient must sell the property utilizing procedures that provide for competition to the extent practicable and that result in the highest possible return.
- (3) ***Transfer title to the Federal agency or a third party designated/approved by the Federal agency.*** When a recipient or subrecipient transfers title to the property to a Federal agency or third party designated or approved by the Federal agency, the recipient or subrecipient is entitled to be paid an amount calculated by multiplying the percentage of the recipient's or subrecipient's contribution towards the original purchase of the real property (and cost of any improvements) by the current fair market value of the property.

EQUIPMENT. Title to equipment acquired under the Federal award will vest upon acquisition in with the Town of Middletown Springs, subject to the conditions of this section. This title must be a conditional title unless a Federal statute specifically authorizes the Federal agency to vest title in the recipient or subrecipient without further responsibility to the Federal Government (and the Federal agency elects to do so). A conditional title means a clear title is withheld by the Federal agency until conditions and requirements specified in the terms and conditions of a Federal award have been fulfilled. Title for equipment vested in a recipient or subrecipient is subject to the following conditions:

- (1) Use the equipment for the authorized purposes of the project during the period of performance or until the property is no longer needed for the purposes of the project.
- (2) While the equipment is being used for the originally-authorized purpose, the recipient or subrecipient must not dispose of or encumber its title or other interests without the approval of the Federal agency or pass-through entity.

The Town must use equipment for the project or program for which it was acquired and for as long as needed, whether or not the project or program continues to be supported by the Federal award. The recipient or subrecipient must not encumber the equipment without prior approval of the Federal agency or pass-through entity. The Federal agency may require the submission of the applicable common forms for reporting on equipment. When no longer needed for the original project or program, the equipment may be used in other activities in the following order of priority:

- (1) Activities under other Federal awards from the Federal agency that funded the original program or project; then
- (2) Activities under Federal awards from other Federal agencies. These activities include consolidated equipment for information technology systems.

During the time that equipment is used on the project or program for which it was acquired, the recipient or subrecipient must also make the equipment available for use on other programs or projects supported by the Federal Government, provided that such use will not interfere with the purpose for which it was originally acquired. First preference for other use of the equipment must be given to other programs or projects supported by the Federal agency that financed the equipment. Second preference must be given to programs or projects under Federal awards from other Federal agencies. Use for non-federally-funded projects is also permissible, provided such use will not interfere with the purpose for which it was originally acquired. The Town may charge user fees as appropriate. However, the Town must not use equipment acquired with the Federal award to provide services for a fee that is less than a private company would charge for similar services unless specifically authorized by Federal statute. This restriction is effective as long as the Federal Government retains an interest in the equipment.

When acquiring replacement equipment, the recipient or subrecipient may either trade-in or sell the equipment and use the proceeds to offset the cost of the replacement equipment.

Regardless of whether equipment is acquired in part or its entirety under the Federal award, the recipient or subrecipient must manage equipment (including replacement equipment) utilizing procedures that meet the following requirements:

- (1) Property records must include a description of the property, a serial number or another identification number, the source of funding for the property (including the Federal Award Identification Number), the title holder, the acquisition date, the cost of the property, the percentage of the Federal agency contribution towards the original purchase, the location, use and condition of the property, and any disposition data including the date of disposal and sale price of the property. The recipient and subrecipient are responsible for maintaining and updating property records when there is a change in the status of the property.
- (2) A physical inventory of the property must be conducted, and the results must be reconciled with the property records at least once every two years.
- (3) A control system must be in place to ensure safeguards for preventing property loss, damage, or theft. Any loss, damage, or theft of equipment must be investigated. The recipient or subrecipient must notify the Federal agency or pass-through entity of any loss, damage, or theft of equipment that will have an impact on the program.
- (4) Regular maintenance procedures must be in place to ensure the property is in proper working condition.
- (5) If the recipient or subrecipient is authorized or required to sell the property, proper sales procedures must be in place to ensure the highest possible return.

When equipment acquired under a Federal award is no longer needed for the original project, program, or for other activities currently or previously supported by a Federal agency, the Town must request disposition instructions from the Federal agency or pass-through entity if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with Federal agency or pass-through entity disposition instructions:

- (1) Equipment with a current fair market value of \$10,000 or less (per unit) may be retained, sold, or otherwise disposed of with no further responsibility to the Federal agency or pass-through entity.
- (2) Except as provided in § 200.312(b), or if the Federal agency or pass-through entity fails to provide requested disposition instructions within 120 days, items of equipment with a current fair market value in excess of \$10,000 (per-unit) may be retained or sold by the recipient or subrecipient. However, the Federal agency is entitled to an amount calculated by multiplying the percentage of the Federal agency's contribution towards the original purchase by the current market value or proceeds from the sale. If the equipment is sold, the Federal agency or pass-through entity may permit the Town to retain, from the Federal share, \$1,000 of the proceeds to cover expenses associated with the selling and handling of the equipment.
- (3) The Town may transfer title to the property to the Federal Government or to an eligible third party provided that the recipient or subrecipient must be entitled to compensation for its attributable percentage of the current fair market value of the property.

- (4) In cases where the Town fails to take appropriate disposition actions, the Federal agency or pass-through entity may direct the recipient or subrecipient to take disposition actions.

When included in the terms and conditions of the Federal award, the Federal agency may permit the Town to retain equipment, or authorize a pass-through entity to permit the Town to retain equipment, with no further obligation to the Federal Government unless prohibited by Federal statute or regulation.

SUPPLIES. Title to supplies acquired under the Federal award will vest upon acquisition with the Town of Middletown Springs. When there is a residual inventory of unused supplies exceeding \$10,000 in aggregate value at the end of the period of performance, and the supplies are not needed for any other Federal award, the Town may retain or sell the unused supplies. Unused supplies means supplies that are in new condition, not having been used or opened before. The aggregate value of unused supplies consists of all supply types, not just like-item supplies. The Federal agency or pass-through entity is entitled to compensation in an amount calculated by multiplying the percentage of the Federal agency's or pass-through entity's contribution towards the cost of the original purchase(s) by the current market value or proceeds from the sale. If the supplies are sold, the Federal agency or pass-through entity may permit the Town to retain, from the Federal share, \$1,000 of the proceeds to cover expenses associated with the selling and handling of the supplies.

Unless expressly authorized by Federal statute, the recipient or subrecipient must not use supplies acquired with the Federal award to provide services for a fee that is less than a private company would charge for similar services. This restriction is effective as long as the Federal Government retains an interest in the supplies or as authorized by Federal statute.

INSURANCE COVERAGE. The Town must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property and equipment owned by the recipient or subrecipient.

Adoption

The Selectboard of the Town of Middletown Springs hereby adopts and enacts these Policies for the management of the capital improvements project of the Middletown Springs Public Library. The adoption occurred on the 9th day of January, 2025, and the policies are effective as of this date until amended or repealed.

Herb Childress, Chair
Terry Redfield, Vice-Chair
Patty Kenyon, Clerk
Carl Haynes
Sean Ruck

Conflict of Interest Policy [2008]

Article 1. Authority

Under the authority granted in 24 V.S.A. §2291(20), the Select Board of Middletown Springs hereby adopts the following policy concerning conflicts of interest.

Article 2. Purpose

The purpose of this policy is to ensure that the business of the municipality will be conducted in such a way that no elected or appointed official of the municipality will gain a personal or financial advantage from his or her official acts for the municipality and so that public trust in municipal officials will be preserved. It is also the intent of this policy to ensure that all decisions made by municipal officers are based on the best interests of the community at large.

Article 3. Definitions (see examples in addendum)

A) **A conflict of interest** means a potential personal or financial benefit or gain of any elected or appointed official, his or her spouse, family member, business associate, employer, or employee, which can be derived from the outcome of a cause, proceeding, application, or any other matter pending before the officer or the public body in which he or she holds office.

Conflict of interest does not arise in the case of votes or decisions on matters in which the public officer derives a personal or financial benefit no greater than that of other persons generally affected by the decisions.

B) **Emergency** means an imminent threat or peril to the public health, safety, or welfare.

C) **Official act or action** means any legislative, administrative, or judicial act performed by any elected or appointed public official while acting on behalf of the municipality.

D) **Public body** means any board, council, commission, or committee of the municipality.

E) **Public interest** means an interest of the community as a whole, conferred generally upon all residents of the municipality.

F) **Public officer or public official** means a person elected or appointed to perform executive, administrative, legislative or quasi-judicial functions for the municipality.

G) **Enforcement** refers to the actions that should be taken to ensure that no conflict of interest affects votes or the finances of the community.

H) **Disqualification and Recusal:** A public officer shall not participate in any official action if he or she has a conflict of interest in the matter under consideration, and shall refrain from voting on such a matter.

I) A standing **Ethics Committee** shall assess and recommend solutions to complaints brought against public officials. The Ethics Committee shall be made up of one member of each of the community's elected organizations including the Selectboard, the Planning Commission, the School Board, the Library Board, the Cemetery Board, the Justices of the Peace, the Listers and the Auditors. Each organization shall appoint one person for one year, to be continued as mutually agreed by the Committee and representative.

Article 4. Disclosure

A) Public official's duty to disclose: A public officer who has reason to believe that he or she has or may have a conflict of interest, but believes that he or she is able to act fairly, objectively, and in the public interest in spite of the conflict of interest shall, prior to participating in any official action on the matter, disclose to the public body the nature of the potential conflict of interest and why he or she believes that he or she is able to act in the matter fairly, objectively, and in the public interest.

B) Complaint brought by community member: A community member who asserts a town official has a conflict of interest will submit the grounds for their complaint in writing to the body of which the officer is a member.

C) Action upon complaint or voluntary disclosure

1. The relevant public body shall make such inquiries as it deems necessary and appropriate, to resolve issues of a real or perceived conflict of interest. Where there are complaints against an elected or appointed member of a town board, the remaining members of that board shall have the authority to inquire of the member about a possible conflict of interest and to suggest or recommend that the member disqualify him or herself from further participation in the matter.
2. If, after hearing the complaint, the public body decides no conflict of interest is present, or that there may be a conflict, but the public body believes the public official can act on the matter fairly, objectively and in the public interest, but the citizen disagrees, the citizen may appeal to the Selectboard.
3. If, after hearing the complaint, the public body decides a conflict of interest is present but the public official disagrees, the official may appeal to the Selectboard.
4. In either case, if there is no resolution of that complaint, the written complaint with a recording of the actions taken is to be submitted to the standing ethics committee which will be convened by the Selectboard within 30 days.
5. If the complaint is against a member of the Selectboard, the complaint shall be submitted to the Ethics Committee, which will be convened by the Selectboard within 30 days.

Article 5. Disqualification and Enforcement

A) Disqualification suggests that a public official who may have a conflict of interest should disqualify or recuse him or herself from voting on any matter that could benefit him or her in some way that is different from the way others may benefit from this vote. Disqualification should result only from an official's own personal gain or that of immediate relatives or business associates.

B) Enforcement

There are several stages to enforcement

1. Voluntary Recusal: Any official who sees the potential for a conflict of interest may recuse himself or herself from voting on a given matter, and the recorded vote shall note such a recusal. The official may choose to identify, or not to identify, the reason for their recusal.
2. A member of the community requests that an official be recused from voting on a given matter. The town officer has an opportunity to respond in writing and with testimony as he/she requests.
3. A majority of the public body [Select Board / Planning Commission etc.] requests that one of its members recuse him/herself from voting on a given matter. Such a town official has an opportunity to respond in writing and with testimony as he/she

requests.

4. If a public body cannot resolve the complaint against its official, the Select Board shall attempt to resolve the issue. If the Select Board is unable to resolve the matter, the Select Board shall refer it to an Ethics Committee charged with evaluating the conflict of interest and assessing appropriate actions.

a) Each organization will choose its own representative to the Ethics Committee. The organization whose member has been questioned, shall recuse itself from participation in the deliberations of the Ethics Committee. If there are fewer than 5 members available for such a committee, or such a board can not offer a suitable solution, the matter shall be referred to an outside mediator by the Selectboard.

b) The committee may recommend:

- i) that no action is needed
- ii) the use of an outside mediator
- iii) resignation
- iv) reparation of damages if recommended by the court
- v) rescinding of vote and new vote on issue scheduled
- vi) public censure
- vii) court action

The public official shall be given the opportunity to provide all needed information to refute the charges of conflict of interest at all stages, and shall have the opportunity to appeal any actions.

c) Legal Costs:

In situations where there are legal costs:

1. If the courts determine that the public official participated in an official act in which the public official had a conflict of interest, the court may order that the public official pay his/her own legal costs and fees as well as those of the complainant in addition to any other remedies available by law.
2. If the court determines that the complaint of conflict of interest was not frivolous, but the public official acted properly in the performance of the official act in question, all parties should bear their own costs and attorney's fees except that the town shall be liable for the costs and fees of its public official.
3. If the complaint is deemed to be frivolous by the courts, the court may order the complainant to pay the other parties' attorneys' fees as well as costs if recommended by the committee and the town.

Article 6. Exceptions

The provisions of Article 5 shall not apply if the Select Board determines that an emergency exists and that actions of the public body otherwise could not take place, or that the public interest requires an exception. In such a case, a public officer believing he or she has a conflict of interest shall disclose such conflict as provided in Article 4.

Article 7. Severability

If any section of this policy is held by a court of competent jurisdiction to be invalid, such findings shall not invalidate any other part of this policy.

Article 8. Effective date

This policy shall become effective immediately upon its adoption by the Middletown Springs Select Board.

ADDENDUM to Conflict of Interest Policy:

Definitions

As there has been some confusion regarding the definition of a conflict of interest, we have developed the following examples:

- A Select Board member votes to award a town contract to his or her own business firm, or to his or her own brother-in-law.
- A library board member votes to hire his or her spouse to be the paid librarian.
- A road foreman paves his own driveway with town materials and equipment.
- A lister assesses the value of his mother's home at less than its true value.

In each case the person gained in a way he or she should not have, because he or she would not have gotten the benefit if he or she hadn't held the office. As a public official, he or she should be looking out for the benefit of the public, not himself or herself, at the expense of the public.

Job Compatibility

Regarding job compatibility, in the case of one individual holding two or more offices, the town will be guided by the State's Chart of Incompatible Offices.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of February 28, 2008

- Fred Bradley, Chair
- Robin Chesnut-Tangerman
- Patty McWilliams
- Matt Haley

Policy on Non-Profit Agency Funding [2024]

Section 1: Title and Authority

Under Vermont law [24 V.S.A. § 2691], a town may appropriate such sums of money as it deems necessary for the support of programs and agencies that provide services to town residents. The purpose of this **Policy on Non-Profit Agency Funding** is to establish procedures for managing the requests for such appropriations.

Section 2: Eligibility

To be eligible for an initial or ongoing appropriation, organizations must demonstrate that they provide services to Middletown Springs residents.

Section 3: Timing

Regardless of the specific procedures outlined below, all programs and agencies seeking support must provide to the Town:

- An annual report suitable for inclusion in the Middletown Springs Town Report; and
- A specific dollar amount of support requested for the coming fiscal year (July 1-June 30)

Both of these must be received by the Middletown Springs Town Clerk no later than December 31 of the year prior to the requested support.

Section 4: Requests from Programs and Agencies Seeking First-Time Support, or Those Not Supported in the Prior Year

All requests by programs and agencies that have NOT been supported by the Town of Middletown Springs in the past can be petitioned (signed by a minimum of 5% of the Town's registered voters) to appear as articles on the Town Meeting ballot, and must be directly approved by a voter majority in order to be supported. This petition must be received by the Town Clerk no later than 47 days prior to the year's Town Meeting. [17 V.S.A. §2642(a)(3)(A)]

All requests by programs and agencies that HAVE been supported by the Town of Middletown Springs in the past, but whose most recent request was voted down at Town Meeting, will appear as articles on the Town Meeting ballot, and must be directly approved by a voter majority in order to be supported.

Section 5: Requests for \$5,000 or More

All requests by programs and agencies that have been supported by the Town of Middletown Springs in the prior year and which seek \$5,000 or more will appear as articles on the Town Meeting ballot, and must be directly approved by a voter majority in order to be supported.

Section 6: Requests from Programs and Agencies Seeking Increased Support

All requests by programs and agencies that have been supported by the Town of Middletown Springs in the prior year, but which seek an increase in the amount of support, will appear as articles on the Town Meeting ballot, and must be directly approved by a voter majority in order to be supported.

Section 7: Level-Funded Requests Approved in Prior Year

All requests by programs and agencies that have been supported by the Town of Middletown Springs in the prior year at less than \$5,000, and which seek the same or reduced levels of funding for the coming year, will automatically be accepted and will not need direct voter approval.

Section 8: Flowchart of Requirements for Organizations Seeking Funding

Question 1: Is this your organization's first request for funding from the voters of Middletown Springs?	If YES , you must provide a petition that requests your funding to be included as a ballot item. That petition must bear the signatures of at least 5% of the Town's registered voters.	If NO , proceed to Question 2.
Question 2: Is your organization requesting funding from the Town for \$5,000 or more?	If YES , the request will appear as a specific ballot item to be voted individually at Town Meeting.	If NO , proceed to Question 3.
Question 3: Is your organization requesting more funding than the previous year?	If YES , the request will appear as a specific ballot item to be voted individually at Town Meeting.	If NO , proceed to Question 4.
Question 4: Was the ballot item for your organization's funding approved at the prior Town Meeting?	If YES , your request will be automatically written into the Town budget as an appropriation, and will not be a separate ballot article. <i>Please note that the voters may reject the budget as a whole, in which case your organization's funding is not guaranteed.</i>	If NO , proceed to Question 5.
Question 5: If your ballot item failed in the prior year, was it ever funded in the past at the same dollar amount requested for this year?	If YES , the request will appear as a specific ballot item to be voted individually at Town Meeting.	If NO , treat this as a first request, as in Question 1 above.

This policy was adopted by the following members of the Selectboard of the Town of Middletown Springs, Vermont, at its meeting of October 10, 2024

- Herb Childress, Chair
- Terry Redfield, Vice Chair
- Patty Kenyon, Clerk
- Carl Haynes
- Sean Ruck

Policy on Selectboard Meetings and Public Participation [2001]

The established time constraints stated on the meeting agenda for Public Comments shall be adhered to.

Persons who wish to have the Board act on a particular item are required to have the item placed on the agenda before its distribution to the board.

Complaints and criticism will be addressed at the next board meeting unless they are of an urgent matter. they must be channeled through the Board chair, or, if necessary, the board. an individual board member has no legal right to promise action.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of June 11, 2001

- Henry Gerberding, Chair
- Francis Haley
- John Colvin
- Shirley Moyer
- William Reed

Policy on Regular Board Participation [2017]

The Board of Selectmen respectfully requests that the Auditors of said Town approve and enact the following internal operational policy that was discussed and adopted at the Board of Selectmen organizational meeting held on Thursday, March 9, 2017.

A motion was made, duly seconded, and passed at said organizational meeting, requiring that Select Board members must attend a minimum of three-quarters (75%) of the Select Board's regular, special, emergency, or any other routine Board functions, in order to receive any remuneration from the Town of Middletown Springs.

This policy may be waived in the event of catastrophic health events, accidents and/or bodily injury, and other unforeseen circumstances that may effectively prevent a Board member from being able to perform his/her responsibilities.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of March 9, 2017

- Chris Fenton, Chair
- Herb Childress
- Patty Kenyon
- Terry Redfield

INVESTMENT POLICY • Town of Middletown Springs VT [2018]

PURPOSE

In accordance with 24 V.S.A. § 1571(b), moneys received by the Treasurer on behalf of the Town of Middletown Springs may be invested and reinvested by the Treasurer with the approval of the Selectboard. The purpose of this Investment Policy is to establish the investment objectives, standards of investing prudence, eligible investments and transactions, internal controls, reporting requirements, and safekeeping and custodial procedures necessary for the proper management and investment of the funds of the Town of Middletown Springs.

This Policy does not apply to trust funds held by the Town of Middletown Springs. These trust funds are managed under a separate investment policy for trust assets, adopted by the Middletown Springs trustees of public funds in accordance with 24 V.S.A. § 2432. It does not apply to bond fund investments made in accordance with applicable bond debenture requirements.

OBJECTIVES

The primary objectives in priority order of investment of the funds of the Town of Middletown Springs shall be safety, liquidity, yield, and local investment.

Safety. Safety of principal shall be the foremost objective of Town funds. Investments will be undertaken so as to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk (the risk of loss due to the failure of the security) and interest rate risk (the risk that the market value of securities in the portfolio will fall due to changes in market interest rates). Credit risk will be minimized by diversifying the Town's investment portfolio so that the impact of potential losses from any one type of investment will be minimized. Interest rate risk will be minimized by investing operating funds primarily in shorter term securities, money market mutual funds, or similar investment pools and limiting the average maturity of the Town's investment portfolio.

Liquidity. The Town's investment portfolio will remain sufficiently liquid to meet all reasonably anticipated operating requirements. This will be accomplished by structuring the portfolio so that investments mature concurrent with cash needs to meet anticipated demands. The portfolio will consist primarily of securities with active secondary or resale markets. A portion of the portfolio may be placed in money market mutual funds to ensure liquidity for short-term funds.

Yield. The investment portfolio will be designed to attain a market rate of return throughout budget and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments will be limited to relatively low-risk securities in anticipation of earning a fair return relative to the risk being assumed. Yield is of secondary importance compared to safety and liquidity objectives.

Local Investment. Where possible, funds may be invested for the betterment of the local economy. The Town may accept a proposal from an eligible institution that provides for a reduced rate of interest, provided that such institution documents the use of deposited funds for community development projects. Local investment is of tertiary importance compared to the safety, liquidity, and yield objectives described above.

POOLING.

Except where prohibited by law, cash and reserve balances from all funds will be consolidated to maximize investment earnings and to increase efficiencies with regard to investment pricing, safekeeping, and administration. Investment income will be allocated to various funds based on their respective participation and in accordance with generally accepted accounting principles.

STANDARD OF CARE.

The standard of care to be used by the Treasurer and Selectboard shall be the prudent person standard and shall be applied in the context of managing an overall portfolio. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the 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.

CONFLICTS OF INTEREST.

The Selectboard and the Treasurer shall refrain from personal business activity that could conflict with the proper execution and management of the Town's investments or that could impair their ability to make impartial decisions. They shall disclose any material interests in financial institutions with which the Town conducts business, and further disclose any personal financial or investment positions that could be related to the performance of the Town's investments. Selectboard members and the Treasurer shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the Town.

INTERNAL CONTROLS.

The Selectboard and Treasurer will establish a system of internal controls, which shall be documented in writing to prevent the loss of invested funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees and officers of the Town. The Town's Auditors will be charged with assisting in the establishment of these internal controls, and will review investment management annually to ensure compliance.

AUTHORIZED INVESTMENTS AND INSTITUTIONS.

Public deposits shall only be made in qualified public depositories as established by Vermont law. All financial institutions and broker/dealers who desire to become qualified for investment transactions with the Town must supply the following as appropriate:

1. Audited financial statements demonstrating compliance with state and federal capital adequacy guidelines;
2. Proof of National Association of Securities Dealers (NASD) certification;
3. Proof of state registration;
4. Certification of having read and understood and agreeing to comply with the Town's investment policy; and
5. Evidence of adequate insurance coverage.

The Treasurer and Selectboard will conduct an annual review of the financial condition and registration of all qualified financial institutions and broker/dealers.

The following investments will be permitted under this policy:

1. U.S. Treasury obligations which carry the full faith and credit guarantee of the United States Government and are considered to be the most secure instruments available;
2. U.S. government agency and instrumentality obligations that have a liquid market with a readily determinable market value;
3. Certificates of deposit and other evidences of deposit at financial institutions;
4. Bankers acceptances;
5. Commercial paper, rated in the highest tier (e.g., A-1, P-1, F-1, D-1 or higher) by a nationally recognized rating agency;
6. Investment grade obligations of state and local governments and public authorities;
7. Repurchase agreements whose underlying purchased securities consist of the aforementioned instruments;
8. Money market mutual funds regulated by the Securities and Exchange Commission and whose portfolios consist only of dollar-denominated securities; and
9. Local government investment pools, either state-administered or developed through joint powers statutes, and other intergovernmental agreement legislation.

COLLATERALIZATION.

Collateralization using obligations fully guaranteed by the full faith and credit of a Vermont municipality, the State of Vermont, and/or the United States Government will be required on certificates of deposit and repurchase agreements. The current market value of the applicable collateral will at all times be no less than 102% of the sum of principal plus accrued interest of the certificates of deposit or the repurchase agreement secured by the collateral. Collateral will always be held by an independent party, in the Town's name, with whom the Town has a current custodial agreement. Evidence of ownership must be supplied to, and retained by, the Town.

SAFEKEEPING AND CUSTODY.

All trades of marketable securities will be executed by delivery vs. payment (DVP) to ensure that securities are deposited in an eligible financial institution prior to the release of funds. Securities will be held by an independent third-party custodian selected by the Treasurer as evidenced by safekeeping receipts in the Town's name. The safekeeping institution shall annually provide a copy of its most recent report on internal controls (Statement of Auditing Standards No. 70, or SAS 70).

REPORTING.

The Treasurer will prepare a quarterly investment report that analyzes the status of the current investment portfolio and the individual transactions executed over the last quarter. The report will include a listing of individual securities held at the end of the reporting period, realized and unrealized gains or losses resulting from appreciation or depreciation by listing the cost and market value of securities over a one-year duration that are not intended to be held until maturity, average weighted yield to maturity of portfolio on investments as compared to applicable benchmarks, listing of investment by maturity date, and percentage of the total portfolio which each type of investment represents.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of March 22, 2018

- Chris Fenton, Chair
 - Herb Childress
 - Carl Haynes
 - Patty Kenyon
 - Terry Redfield
- Jenny Talke Munyak, Treasurer

Policy on Fraud Prevention [2021]

PURPOSE.

The purpose of this policy is to provide a mechanism for employees and officers to bring to the attention of the town auditors any complaints regarding the integrity of the Town's internal financial controls or the accuracy or completeness of financial or other information used in or related to the Town's financial statements and reports. Town employees and officers shall not be discharged, demoted, suspended, threatened, harassed, or discriminated against in any manner for raising reasonable questions concerning the fair presentation of town financial statements in accordance with this policy.

REPORTS OF IRREGULARITY.

Any employee who has a complaint regarding the integrity of the Town's internal financial controls or the accuracy or completeness of financial or other information used in or related to the Town's financial statements and reports, or who observes any questionable accounting practices, should report such complaint to the town auditors. The report should include a description of the matter or irregularity, the period of time during which the employee observed the matter or irregularity, and any steps that the employee has taken to investigate the matter or irregularity, including reporting it to a supervisor and the supervisor's reaction. The report may include, at the employee's option, the employee's contact information if additional information is needed. However, a report shall not be deemed deficient because the employee did not include contact information. Examples of reportable actions include any indication of fraud, misappropriation of Town resources, substantial variation in the Town's financial reporting methodology from prior practice or from generally accepted accounting principles, and the falsification, concealment, or inappropriate destruction of Town financial records.

INVESTIGATION.

Upon receiving such a report, the town auditors shall investigate the issues identified in the report. The town auditors may consult with the select board, treasurer, any other town official or employee, legal counsel and independent auditors as a part of their investigation. At the conclusion of the investigation, the town auditors shall prepare a written response to the report, which shall be a public document. In accordance with 24 V.S.A. § 1686(c), any town officer who willfully refuses or neglects to submit his or her books, accounts, vouchers, or tax bills to the auditors upon request, or to furnish all necessary information in relation thereto, shall be ineligible for reelection for the year ensuing and be subject to the penalties otherwise prescribed by law.

This Policy was adopted by the select board and the treasurer of the Town of Middletown Springs, Vermont, this **27 day of May 2021** and is effective as of this date until amended or repealed.

- Terry A Redfield
- Patricia Kenyon
- Robin Chesnut-Tangerman
- Heather Grier
- Neil Russell

Jennifer Talke Munyak, Treasurer

Policy on Accounting, Auditing and Financial Reporting [2021]

PURPOSE.

The purpose of this Accounting, Auditing and Financial Reporting Policy is to establish and maintain high standards for accounting practices in the Town of Middletown Springs, thereby enabling voters, the selectboard, and the treasurer to make sound decisions in preparing and adopting the Town budget and managing Town finances.

ACCOUNTING.

The accounting practices of the Town will conform to Generally Accepted Accounting Principles for local governments as established by the Governmental Accounting Standards Board. The town treasurer will establish and maintain a system of fund accounting and shall measure financial position and results of operations using the modified accrual basis of accounting for governmental funds. The Library Board treasurer will mirror, to the extent possible, the accounting principles that are used by the town treasurer. The elected Trustees of Proprietary and Fiduciary funds (all accounts managed and overseen by specifically elected trustees on behalf of the town) will use the accrual basis of accounting for proprietary and fiduciary funds.

AUDITING.

Periodically, and at their discretion, the selectboard will cause the Town financial statements to be audited by a qualified, properly licensed independent accounting firm. This audit will be conducted in addition to any audit performed by the Town's elected auditors under 24 V.S.A. § 1681.

MONTHLY AND ANNUAL FINANCIAL REPORTING.

The treasurer will prepare and distribute monthly treasurer managed financial reports for the selectboard's management purposes, as indicated below:

- **Budget Report** showing revenues collected and appropriations expended for the previous month with the variance from the budget amounts for each line item;
- **Trial Balance** showing fiscal year to date totals for all accounts and revenue and expenditure categories.

Additional monthly financial reports will be prepared and filed in a publicly accessible binder in the Town Office, as indicated below:

- **Balance sheet** showing Town assets less liabilities and fund balance,
- **Detail Transaction** showing every single transaction for that period
- **Revenue report**
- **Expenditure report**
- **Posting register**

The treasurer will prepare an annual financial report to be included in the Annual Town Report. This report should include financial statements for each of the treasurer managed funds of the Town, as well as appropriate additional disclosures as necessary for the complete understanding of the financial statements presented.

The Trustees of Proprietary and Fiduciary funds will also prepare an annual financial report to be included in the Annual Town Report.

A report prepared by the Town's elected auditors under 24 V.S.A. § 1682, will be reproduced in the Town's annual report each year.

If an independent outside audit has been completed in the year concurrent with the Annual Town Report, a summary of the findings may be included therein. The entire Independent Audit will be accessible via the town website and a physical copy of the report will be available at the Town Office for public review.

The foregoing Policy is hereby adopted by the selectboard and the treasurer of the Town of Middletown Springs, Vermont, this **14th day of October 2021** and is effective as of this date until amended or repealed.

- Terry A Redfield
- Patricia Kenyon
- Robin Chesnut-Tangerman
- Heather Grier
- Neil Russell

Jennifer Talke Munyak, Treasurer

Election Day Policies [2024]

HOURS

Polls are open from **7am to 7pm** for all elections involving Australian Ballot voting.

POLLWATCHERS

Poll watchers are permitted inside the polling place and must remain in the designated observation area (behind the boundary). They must not interrupt the election officials or the election process. **No cell phones or pagers are permitted.**

No one has the right to see the entrance checklist during the election except the election workers, (except in towns with less than 500 voters on the checklist when a written request has been made at least 12 hours before the polls open).

When poll watchers are present, the election workers are to speak loud enough for the poll watcher(s) to hear. Should there be a problem with audibility, the poll watchers will bring the problem to the Presiding Officer at the earliest possible convenience.

The grounds of challenge of a person whose name appears on the checklist shall be only:

1. That they are not, in fact, the person whose name appears on the checklist.
2. That they have previously voted in the same election.

Challenges are heard and decided on by the members of the BCA present at the time of the challenge.

SIGNS OUTSIDE THE POLLING PLACE

No stand-alone campaign signs or materials are allowed on Town owned property. Any materials left unattended on town property will be removed.

CAMPAIGNING OUTSIDE POLLING PLACE

Campaigning is a First Amendment right. Candidates and supporters are asked to check in with the town clerk when they arrive. An Area will be designated for campaigners and candidates outside the town office. People may hold signs in the designated area, but no one is permitted to interfere with any voter entering or exiting the polling place. Campaigners may not block the sidewalks or entrances. We ask that candidates or campaigners not park or hold signs in the town office parking lot. Parking spaces are available on East Street adjacent to the town green or on Park Avenue near the Historical Society building.

NO CAMPAIGN BUTTONS OR LITERATURE INSIDE THE POLLING PLACE

The entire Town Office building is the official polling place. On election day, no campaign literature, stickers, buttons or any other type of information about candidates or other political material may be placed, handed out or allowed to remain in the polling place. No campaigning or any kind by any person for a candidate or issue is permitted inside the polling place.

Voters may bring a small card or folded paper to remind them how to vote or a label or sticker to affix to the ballot to vote for a write-in candidate if these materials are not displayed to others in the room. §2587(e).

No person in the polling place is allowed to wear, display or hand out political material that contains:

- 1) A candidate on the ballot.
- 2) An organized political party.
- 3) Support or opposition for a question on the ballot. §2508.

A person wearing a button or sticker will be asked politely to remove them while in the polling place. Clothing, hats or buttons with general political material are allowed.

These provisions about campaigning also apply to the town clerk's office during the early or absentee voting period. §2508(a)(1)(C).

Adopted by the Board of Civil Authority - February 13, 2024

The foregoing Policy is hereby adopted by the Board of Civil Authority of the Town of Middletown Springs, Vermont, this **13th day of February 2024** and is effective as of this date until amended or repealed.

Terry A Redfield
Patricia Kenyon
Robin Chesnut-Tangerman
Herb Childress
Peter Stevenson

Patricia Hemenway
Meredith Morgan
Elizabeth Cooper
Leslie Silver

Policies Related to Roads

Road Policy [1999]

I. Classification of Highways

All Highways in the Town of Middletown Springs are classified as Class 1, 2, 3, or 4 as specified in 19 VSA Section 17. The purpose of each class and the Town's responsibilities thereto, are as follows:

Class 1 Town highways are those highways that form the extension of a State highway route and that carry a State route number.

Class 2 Town highways are those highways selected as the most important highways in each town. As far as practicable, they shall be selected with the purpose of securing trunk lines of improved highways from town to town and to places which, by their nature, have more than normal amounts of traffic.

Class 3 Town highways are all traveled town highways other than Class 1, 2, or Class 4 highways. The selectboard, after conference with a representative of the State Transportation Agency, shall determine which highways are Class 3 town highways.

In their determination, the selectboard shall consider that the minimum standards for Class 3 highways are a highway negotiable under normal conditions, all seasons of the year by a standard manufactured pleasure car. This would include, but not be limited to, sufficient surface and base, adequate drainage and sufficient width capable of supporting winter maintenance.

Class 4 Town highways are all other town highways, including trails and pent (confined) roads. The selectboard shall determine which highways are Class 4 town highways. The Town will not provide improvements or maintenance to any Class 4 roads which are not presently being maintained. Class 4 roads which are presently being maintained will not be maintained beyond their current level of maintenance.

II. General Policy

All expenses, legal or otherwise, shall be borne by the applicant in the process of laying out and constructing proposed new highways, constructing drives, or installing culverts or signs. All expense incurred by the Town in connection with these processes must be borne by the applicant.

III. Acceptance Procedures

Application. A developer of a housing project or business development, or the owner of a dwelling, may apply to the Town for acceptance of his/her road as a Class 3 town highway after meeting the criteria set forth in **Section IV: Specifications** below. The application must be accompanied by a survey in form acceptable to the Town Clerk for accuracy, thoroughness and legibility and a proposed warranty deed of the land to be conveyed for highway purposes, said warranty deed to be in form acceptable to Town Attorney.

Inspection. The Selectboard or its designee will inspect the proposed road within 30 days of receiving the application for acceptance. No roads will be accepted between November 15 and May 1 of each year.

Hearing. The selectboard or its designee will inspect the proposed highway and within 60 days of receipt of the completed application, will hold a public hearing to receive suggestions and recommendations on the application. Affected property owners will receive 30 days notice of the hearing, and notice will be posted in the Town offices and published in the newspaper of general circulation not less than 10 days before hearing.

Acceptance. A decision on the application will be made by the selectboard and the next duly called meeting after the public hearing. a copy of the decision, in writing, will be sent to the applicant and will be posted in the Town offices.

IV. Specifications

The following are the minimum specifications of roads for acceptance by the Town of Middletown Springs as Town Highways:

1. all proposed roads will be required to meet all material and construction methods of the current State of Vermont Standard Specifications.
2. In addition, all proposed roads shall have a minimum of three rods, or fifty (50) foot right-of-way. The traveled roadway shall be in the center of the right-of-way and shall be no less than twenty-four (24) feet wide.
3. Roadways originating at blacktop Town highways, any State Aid Highways, or any State Highway shall consist of a minimum sub-base of bank run gravel of at least eighteen (18) inches, a shaping course of crushed gravel of at least four (4) inches, topped with a two (2) inch coat of oil-treated surface or bituminous concrete surface at the discretion of the Selectboard. In any case, the roadway shall be paved with a two (2) inch bituminous concrete surface for a distance of twenty-five (25) feet from the intersection with the Town highway. Where roads are built on clay, any approved filter blanket (a geo-textile fabric) or six (6) inches of sand cushion below gravel sub-base will be required.
4. The Town shall require paving on grades over 7% unless the Selectboard waives the requirement in specific instances.
5. Roadways originating at gravel surfaced Town Highways shall consist of a minimum sub-base course of bank run gravel of at least eighteen (18) inches and a topping of at least eight (8) inches of two-inch-minus crushed gravel. Where roads are built on clay, an approved filter blanket (a geo-textile fabric) or six (6) inches of sand cushion below gravel sub-base will be required.
6. All proposed roads shall be so drained that no water will remain and collect in any one spot, or form a pool. To ensure proper drainage, sufficient ditches must be dug along both sides of the proposed road and culverts must be at least fifteen (15) inches in diameter for driveways and eighteen (18) inches in diameter for culverts under roadways or larger, depending on the need as determined by the Road Commissioner and/or Selectboard, not less than thirty (30) feet in length (Longer if fill over culvert so warrants). All culvert materials must be approved by the Road Commissioner and/or Selectboard. Drainage pipe sizes and catch basins shall conform to good road construction practices. Under drains shall be installed if

required, and outfall or all drainage shall be at approved locations. Posts, or posts and guardrails shall be required where fill exceeds ten (10) inches in height and slopes are steeper than 1:3, and culverts, or where the Selectboard determines a hazard warrants installation. Appropriate easements shall be obtained prior to the installation of any drainage facility.

7. Any person wishing to build an access road to any town highway must first obtain approval from the Selectboard.
8. The centerline grade of all proposed roads shall not exceed 10%.
9. Curve radius for any proposed road shall be a minimum of one hundred (100) feet.
10. Conveyances of all proposed roads being dedicated to the Town of Middletown Springs, and to be accepted by the Town, shall be by means of a warranty deed conveying the Right-Of-Way to the proposed road. Title examination, together with Title Certificate, shall be furnished to the Town by an attorney, to be approved by the Selectboard.
11. All costs in connection with the dedication and acceptance of any proposed roads as Town Highways, including the construction of the road itself, surveying, the preparation of the Warranty Deed, the Title Examination and other legal expenses incurred by the Town of Middletown Springs in connection with the approval and acceptance of roads, shall be borne by the applicant.
12. Dead-end streets shall terminate in a circular turnaround having an outside radius of not less than ninety (90) feet, or in a non-circular turnaround approved by the Selectboard.
13. Suitable Vegetation shall be planted and established wherever construction has left the earth subject to erosion.
14. Brush and trees shall be cut to a width of at least thirteen (13) feet from each side of the gravel surface, and shall be removed from the right-of-way.
15. Any road less than five hundred (500) feet in length shall be considered a private drive.
16. Before the Town of Middletown Springs accepts any proposed road, blueprints and specifications for such proposed road must be filed with the Town Clerk, by the applicant.
17. No proposed road will be accepted by the Town of Middletown Springs as a Town highway until such proposed road, upon completion, shall have been placed in service and used by the public as a thoroughfare for at least one (1) year. The Selectboard may waive this requirement.
18. At the time that the road is accepted by the Town, the Selectboard will affix the official name of the road, after taking into consideration all legitimate requests that were submitted with the road acceptance petition.

V. Other Considerations

- The Selectboard reserves the right to make changes or omissions to this policy following proper procedure.
- The Selectboard reserves the right to accept or reject any proposed Town highway based on the Selectboard's belief of what it feels is in the best interest of the Town.
- The Selectboard is the final arbiter.
- The Selectboard reserves the right to waive any of the above provisions/requirements on a case by case evaluation.

- Selectboard approval is required prior to commencement of any work in any Town Highway right-of-way, as per Selectboard policy established on 13 July 1999 as part of original road policy draft 1.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of May 24, 1999

- Henry Gerberding, Chair
- Clarence Haynes
- John Atkins
- Francis Haley
- Robin Chesnut-Tangerman

Town Road and Bridge Standards [2013]

The Town of Middletown Springs hereby adopts the following Town Road and Bridge Standards which shall apply to the construction, repair, and maintenance of all town roads and bridges.

The standards listed here are considered minimum and apply to construction projects and repair and maintenance activities. The standards include management practices and are designed to: ensure the safety of the traveling public, minimize damage to road infrastructure during flood events, and enhance water quality protections by minimizing sediment delivery to surface waters and/or wetlands.

The Select Board reserves the right to modify the standards for a particular project or repair or maintenance activities where, because of unique physical circumstances or conditions, there is no possibility that the project or activities can be completed in strict conformance with these provisions. Any modifications to the standards must be done in a manner that serves the underlying intent of the management practice, be it public safety, flood hazard avoidance, or water quality protection. Fiscal reasons are not a basis for modification of the standards. Questions about modifications to the standards should be directed to the VTrans District Office.

Municipalities must comply with all applicable state and federal approvals, permits and duly adopted standards when undertaking road and bridge activities and projects. Any new road regulated by and/or to be conveyed to the municipality shall be constructed according to the minimums of these standards. If any federal and/or state funding is involved in a project, the VTrans district office must be notified prior to any field changes taking place that would alter the original scope of work.

Roadways

- All new or substantially reconstructed gravel roads shall have at least a 12-inches thick processed gravel sub-base, with an additional 3 inches (minimum) top course of crushed gravel.
- All new or substantially reconstructed paved roads shall have at least a 15 inches thick processed gravel sub-base.
- All roadways shall be graded so water does not remain on the road surface. For roadways that are not super-elevated, this generally means a 2-4% (1/4" - 1/2" per ft) crown for gravel roads and a 1-2% (1/8" - 1/4" per ft) crown for paved roads to promote sheeting of water.
- Proper grading techniques for gravel roadways must be used to avoid creating a ridge or berm between the crown and the ditch.
- Any berm along the roadway shoulder that prevents the proper sheeting of water must be removed.

Ditches and Slopes

Soil exposed during ditch and slope construction, repair or maintenance must be treated immediately following the operation and temporary erosion prevention and sediment

control practices must be installed and maintained during construction activities and until the ditch or slope is permanently stabilized.

The following are minimum erosion control measures. Careful attention must be given to areas vulnerable to erosion and immediately adjacent or discharging to surface waters and/or roadway drainage facilities:

- Seed and mulch all ditches with grades less than 5% when undertaking projects or repairs or maintenance activities that result in exposed soil. Vegetation must be established and monitored. If vegetation is not established within 10 days of placement, install biodegradable non-welded matting with seed.
- Stone line all new or reconstructed ditches or whenever soils are disturbed by maintenance activities with grades equal to and greater than 5%; alternatively, install stone check dams. The check dams must meet criteria outlined in the *"Standards and Specifications for Check Dams,"* from the *Vermont Standards and Specifications for Erosion Prevention and Sediment Control*. Specifically, dams must be placed so that the crest of the downstream check dam is at the same elevation as the base of the upstream dam.
- Create parabolic (wide "U" shaped) ditches when constructing new or substantially reconstructing ditches, rather than narrow "V" shaped ditches wherever lateral space allows. Ditches with gradual side slopes (maximum of 1:2, vertical to horizontal ratio) and a wide bottom (at least 2 feet) are preferred. Use biodegradable, non-welded matting to stabilize side-slopes where slopes are greater than 1:2 and less than 1:1 VS; apply seed and mulch to any raw or exposed side-slope if slopes are less than 1:2.
- All ditches must be turned out to avoid direct outlet into surface waters. There must be adequate outlet protection at the end of the turnout, either a structural (rock) or vegetative filtering area.
- If in the best professional engineering judgment of the VTrans Operations Division, there is a cost effective ditch treatment that will meet the intent of the management practices described above, but represents a departure from these standards, the municipality may implement the more cost effective ditch treatment alternative with the professional recommendation submitted in written form by VTrans prior to the municipality executing the work.
- When constructing new or substantially reconstructing side slopes, use appropriately sized stone armament on slopes that are 1:1 VS or greater. If perennial streams are affected by the toe of slope the project must conform to the statewide Stream Alteration standards.

Culverts and Bridges

- Replacement of existing culverts and any new culvert must have a minimum culvert diameter of 18 inches.
- Replacement of existing bridges and culverts and any new bridges and culverts must be designed in accordance with the VTrans Hydraulics Manual, and, in the case of perennial streams, conform to the statewide Stream Alteration standards.
- All new driveway culverts must have a minimum diameter of 15 inches.
- When installing or replacing culverts, use appropriate techniques such as headwalls and wingwalls, where there is erosion or undermining or where it is expected to

occur.

- Install a splash pad or plunge pool at the outlet of new or repaired drainage culverts where there is erosion or where erosion may occur. Splash pads and plunge pools are not appropriate for use in streams supporting aquatic life.

Guardrails

When roadway, culvert, bridge, or retaining wall construction or reconstruction projects result in hazards such as foreslopes, drop offs, or fixed obstacles within the designated clear-zone, a roadside barrier such as guardrail must be installed. The most current version of the AASHTO Roadside Design Guide will govern the analysis of the hazard and the subsequent treatment of that hazard.

Access Management

The town must have a process in place, formal or informal, to review all new drive accesses and development roads where they intersect Town roads, as authorized under 19 V.S.A. Section 1111. Towns may reference VTrans A-76 Standards for Town & Development Roads and B-71 Standards for Residential and Commercial Drives; and the VTrans Access Management Program Guidelines for other design standards and specifications.

Training

Town highway maintenance crews must collectively attend a minimum total of 6 hours of training per year on best road management practices. The town must keep documentation of their attendance for a period of three years.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of February 14, 2013

- Chris Larson, Chair
- Mike Lamson
- Shirley Moyer
- James Webber

Town Road and Bridge Standards [2011]

The Town of Middletown Springs hereby adopts the following Town Road and Bridge Standards which shall apply to the construction, maintenance and repair of all town roads and bridges.

The standards listed here are considered minimum and are presented for purposes of guiding construction and maintenance personnel. The standards listed here include three types of management practices and are designed to: ensure the safety of the traveling public, minimize damage to road infrastructure during flood events, and enhance water quality protections by minimizing sediment delivery to surface waters and/or wetlands. The select board reserves the right to modify the standards for a particular project, where, because of unique physical circumstances or conditions, there is/no possibility that the project can be completed in strict conformance with these provisions. Any modifications to the standards must be done in a manner that protects the underlying intent of the management practice, be it public safety, flood hazard avoidance, or water quality protection. Fiscal reasons are not a basis for modification of the standards. Questions about modifications to the standards should be directed to the VTrans District Office.

Any new road, whether or not that road is proposed to be conveyed to the town, shall be constructed according to the minimums of these standards. If any federal and/or state funding is involved in a project, the VTrans district office will be notified prior to any field changes taking place that would alter the original scope of work.

Roadways

- All new or substantially reconstructed roads will have at least a 15-inch thick processed gravel subbase, with gravel roads having the top 3 inches (minimum) as crushed gravel.
- All roadways will be graded so water does not remain on the road surface. For roadways that are not superelevated, this generally means a 2-4% (% - 1/2" per ft) crown for gravel roads and a 1-2% (1/8" - 1/4" per ft) crown for paved roads to promote sheeting of water.
- Proper grading techniques for gravel roadways will be used to avoid creating a ridge or berm between the crown and the ditch.
- Any berm along the roadway shoulder that prevents the proper sheeting of water will be removed.

Ditches and Slopes

Soil exposed during ditch and slope construction or maintenance will be treated immediately following the operation. Priority should be given to areas vulnerable to erosion immediately adjacent to or discharging to surface waters and/or roadway drainage facilities. The following are minimum erosion control measures:

- Seed and mulch ditches with grades less than 2%. Use biodegradable, non-welded matting and seed on ditches with grades between 2% and 5%. Stone line all ditches with grades greater than 5%; alternatively, install stone check dams. Dams should

be comprised of a well graded stone matrix 2 to 9 inches in size. Dams should not exceed 2 feet in height and check dam crest should be at least 6" below' the top of the ditch.

- Create parabolic (wide "U" shaped) ditches when constructing new or substantially reconstructing ditches, rather than narrow "V" shaped ditches, Ditches with **gradual** side slopes (maximum 2H: IV ratio) and a wide bottom (at least 2 feet) are preferred.
- Use biodegradable, non-welded matting to stabilize side-slopes where slopes are greater than 1:1; apply seed and mulch to any raw or exposed side-slope if slopes are less than or equal to 1:1.
- Ditches should be turned out to avoid direct outlet into surface waters. There must be adequate outlet protection at the end of the turnout, either a structural (rock) or vegetative filtering area.

Culverts and Bridges

- All new driveway culverts will have a minimum diameter of 15 inches.
- All new roadway culverts will have a minimum diameter of 18 inches.
- Any culvert with a drainage area greater than 0.25 sq mi will require a hydraulic engineering study. Culverts will be designed to convey the Q25 design storm with minimal surcharge,
- All bridges (structures with spans greater than 6 feet) and open bottom structures will require a hydraulic engineering study. Structures will be designed to convey the Q25 design storm and allow for passage of ice and debris.
- When installing or replacing culverts, use appropriate techniques such as headwalls and wingwalls, where there is erosion or undermining or where it may occur.
- Install a splash pad or plunge pool at the outlet of drainage culverts where there is erosion, or where erosion may occur. Splash pads and plunge pools are not appropriate for use in streams supporting aquatic life.

Guardrail

When roadway, culvert, bridge, or retaining wall construction or reconstruction projects result in hazards such as foreslopes, drop offs, or fixed obstacles within the designated clear-zone, a roadside barrier such as guardrail shall be installed. The most current version of the AASHTO Roadside Design Guide will govern the analysis of the hazard and the subsequent treatment of that hazard.

Access Management

The town will have a process in place, formal or informal, to review all new drive accesses and development roads where they intersect Town roads, as authorized under 19 V.S.A. Section 1111. Towns may reference VTrans A-76 Standards for Town & Development Roads and B-71 Standards for Residential and Commercial Drives,

Training

Town highway maintenance crews will collectively attend a minimum total of 6 hours of training per year on best road management practices. The town will keep documentation of their attendance.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of May 26, 2011

- Chris Larson, Chair
- Carl Haynes
- Shirley Moyer
- Mike Lamson
- Thomas [can't read]

Underground Burial Specifications for Road and Rights-of-Way [2012]

Items covered but not limited to in these specifications are as follows: Electrical, phone and other related cable, water, sewer, gas, culverts, signage, trees and all other items that maybe desired to be buried in the town roads and right of ways.

Any work to be performed in Middletown Springs roads or right of ways can only be approved by the Middletown Springs Selectboard or a person designed by the Selectboard. No work will be considered without a work in Right-of-way form filed with the Middletown Springs Selectboard, showing a detailed description and location of work to be done. No work will commence without prior approval of the Selectboard. All work will follow all Vermont Codes and Standards and in some cases may need to be upgraded to meet standards set by the Middletown Springs Selectboard.

Electrical Lines

Where electrical lines are buried they will cross the roads as close to 90 degrees as possible. They will be sleeved in metal conduit to the two most outer limits of the Right-of-way. The electrical lines will not be allowed to be buried running parallel in the road or parallel in the road right-of-way. The conduit pipe must be at least three feet from the highway surface to the top of the conduit pipe. If an obstruction occurs to prevent proper depth, burial will not be allowed until an alternative method is approved by the selectboard. Direct burial warning tape will be used on all burials within Middletown Springs Right-of-ways.

Telephone and other Related Cable

Where these cables cross the roads they will do so as close to 90 degrees as possible. They will be at a depth of no less than 3 feet and will be sleeved in metal conduit or a minimum of schedule 80 plastic conduit. Any of these cables buried running parallel with any town highway in Middletown Springs will be to the most outer edge of the Town right-of-way and at a minimum depth of 3 feet and will be marked with direct burial warning tape.

Water, Sewer and Gas

Water, sewer and gas service lines will be sleeved in steel conduit or plastic conduit not less than schedule 80 and at a depth of no less than 5 feet. To extend to the most outer limits of the towns Right-of-ways direct burial warning tape will be used to mark this type of burial.

Culverts

Culvert installation will follow standards set in Middletown Springs Road Policy.

Private Signage

New signage of any private nature will not be allowed to be placed in or on any town road or right-of-way of Middletown Springs.

Encroachment

There shall be no encroachment to any Middletown Springs Roads after October 15th of any calendar year to May 15th of any calendar year unless for an emergency and then only with authorization from the Middletown Springs Select board.

Supervision and Oversight

All burials will be overseen by a Town Employee designated by the selectboard and paid for by the applicant at the employee's normal rate of pay.

All applications will have detailed locations and depths of any and all burials. These will be formatted in map form and will be made available to the town on completion of any and all burials. Copies of said maps will be corrected and updated by the applicant at the time any change occurs.

During normal road maintenance or road re-construction burials may need to be located. This is the responsibility of the utilities or private individuals who are responsible for the maintenance and upkeep of said burials.

All specifications and agreements listed are under the sole discretion of the Middletown Springs Select board and a copy filed in the Middletown Springs Road Policy Book and adopted as part of the Road Policy. All parts of this document are subject to change by a majority vote of the Middletown Springs Selectboard.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of May 2012

- Chris Larson, Chair
- Mike Lamson, Clerk
- James Webber

Winter Roads Policy [2001]

According to the Vermont Agency of Transportation driving too fast on wintry roads is the LEADING cause of crashes.

Plow routes are set up to open the major traffic and bus routes first (Route 140 and Schoolhouse Road). After those are done we will plow the roads which we feel cause the most problems for the public based on traffic volume, steep hills, curves, etc. The order of roads may vary from storm to storm.

The Town currently has one full time and one half time employee. We hire other qualified operators to plow as needed.

The Town maintains and plows over 27 miles of Class 2 and Class 3 highway. Please understand that not all roads can be plowed “first”.

The Town does not plow private or Class 4 roads with the exception of a short stretch of Norton Road for emergency vehicle access.

The Road Crew is often out plowing in the middle of the night to have roads open for school and work. Some storms may require multiple treatments of Route 140 before other roads have been plowed at all.

Salt will be applied to most paved roads with a minimum amount of sand as needed. (Salt is not effective below 20 F). Sand mixed with salt will be applied to gravel roads. The town is now equipped to spray liquid calcium chloride and it will be applied where it proves effective.

Vehicles must be parked in driveways or otherwise off-road. Vehicles parked on-road, or that obstruct snow plowing, may be towed at the owner’s expense.

Homeowners and contractors plowing private drives may not push the snow across public highways. IT IS AGAINST STATE LAW TO PLOW SNOW ACROSS PUBLIC ROADS (VSA 23 § 1126a). This leaves ridges and clumps which are hazardous to other drivers.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of December 10, 2001

- Fred Bradley, Chair
- Robin Chesnut-Tangerman
- Patty McWilliams
- Matt Haley
- William Reed

Winter Operations Policy [2016]

The purpose of an accepted winter operations policy is to define the scope of procedures for snow and ice control and removal. The primary objective with winter operations is to maintain the safety and mobility of the travelling public. Although financial limitations ultimately affect the level of service that is provided, every effort will be made to provide safe roadway conditions as soon as possible with available resources (budget, personnel, equipment and materials).

Vermont storms vary dramatically in prediction, intensity, precipitation mix, timing, and geographic location. The Highway Department will coordinate operations to best address each event. This plan is intended as a general guide; the details of response to individual storms will be at the judgment of the Road Foreman.

Overview

During the winter period extending from November 1 — April 30, the Highway Department's primary objective is to control snow and ice on roughly 27 miles of Town Class 2 and Class 3 highway. Resource limitations do not allow for 24 hour continuous winter maintenance service during storm events. For safety reasons, and within the Town's insurance guidelines, the Highway Department limits employee plowing hours. Because of these limitations, there may be reduced or no winter maintenance between the hours of 10:00 PM and 4:00 AM.

The Highway Department strives to keep roads safe for the travelling public. However, the Town does not have a "bare roads" policy. Roads may be snow covered during and following storm events. Adverse driving conditions are to be expected and motor vehicle operators must be prepared for such. The following is a list of actions (provided by VTrans) that drivers should adhere to in order to accommodate safe winter driving:

- A) Slow down. Driving too fast on wintry roads is the leading cause of crashes
- B) Travel at a safe distance. Allow at least 3 car lengths in order to leave plenty of room to stop.
- C) Watch for plow trucks. Do not crowd/tailgate slow moving maintenance and emergency vehicles.
- D) Do not use cruise control on snow covered roads.
- E) Do not overestimate the capabilities of four-wheel drive vehicles.
- F) Clear all snow and ice from vehicle prior to travel, including from roof, hood and trunk decks.
- G) Have proper snow tires on your vehicle.
- H) Be prepared for black ice on what appears to be bare pavement.

Prioritization

During a storm event, the Middletown Springs Highway Department will be responsible for five miles of Class 2 Town Highway (Route 140) and 22 miles of Class 3 Town Highways. Special attention will be given to intersections, hills and curves. School bus routes will be prioritized as appropriate considering status of school operation, storm duration, and the

nature of road conditions. The school bus stop at the Town Office lot will be cleared as soon as possible on school days.

Class 4 Town Highways will not receive winter maintenance unless authorized by the Middletown Springs Select Board per 19 V.S.A. Section 302 (a) (3) (b). The unmaintained Class 4 roads will be clearly marked by signs at the end of the maintained areas.

The Highway Department will not maintain private roads or private driveways.

Sidewalks will be addressed as soon as practical following a storm event.

Procedure

Using available resources and judgment based on experience, the Highway Foreman or his designated representative will determine the appropriate level and timing of snow and ice control to be performed by the Highway Department. Each storm is a unique event, so deviations from the routine maintenance plan may occur. Drivers have the responsibility for safe vehicle operation, based upon road and traffic conditions.

Communication with schools and school bus operators will occur early in the morning if road conditions have not improved or are deteriorating. This will allow the school district Superintendent to make a decision, based on the Highway Department's recommendation, on whether to close schools or have a delay. The Highway Department does not make the decision.

In general, snow will be plowed and sand or sand/salt mixtures will be applied during a storm to keep roads open to traffic and to provide an operable roadway surface. Sand or sand/salt mixtures will be applied to roadway centers. For paved roads, one-third (1/3) bare pavement will be provided in the middle of the road as soon as practicable. Curves, hills, intersections and bus routes will be given additional attention. For continuous storms, repeated applications will be required.

Generally, when temperatures are above 20 degrees Fahrenheit, salt or sand/salt mixtures will be applied to paved roads while sand will be applied to gravel roads. When temperatures are below 20 degrees Fahrenheit, sand will be used on all roads. The Road Foreman has discretion to apply materials according to his judgment.

Following storm events, continued maintenance will include improvement of road surfaces by clearing packed snow, pushing back snow on road shoulders (winging), removing excess snow piles within the village center, and opening/thawing culverts, ditches and storm drains.

Equipment and Materials

To support winter road-clearing operations, the Highway Department operates two single-axle plow trucks, each equipped with a one-way front plow, wing plow, and material spreaders. The Highway Department also operates a one-ton pickup with a one-way front

plow, used for narrow areas and intersection clean-up. All vehicles have radio communications.

The town keeps a stockpile of sand, approximately 1,500 cubic yards at the beginning of winter, at the Town lot on North Street.. The town also stockpiles salt in a shed at the Town lot, beginning the winter with approximately 120 tons. A small stockpile of sand for public use is provided and will be replenished as needed. It is located to the south of the transfer station gate at the Town lot. For safety reasons, residents are to take sand only from that public-use area, and not from the Town's main stockpile.

Ordinances/Laws

Vermont roads are based on a right-of-way (ROW) which is wider than the paved or graded area of the road. Most often, Vermont roads are defined by a "three rod" width, or a total ROW of 49' 6". In the winter, the additional ROW width enables the actual travelled roadway to be adequately cleared, with accumulated snow plowed off the roadway and into the right of way.

Title 19, Section 1111 of Vermont Statutes Annotated prohibits the encroachment of the Town right-of-way without prior approval of the Select Board. Objects in the ROW are placed there at the owner's risk and the Town assumes no responsibility for any damage to objects placed in violation of the statute. Common items in the ROW are fences, flower pots, basketball hoops, etc. Recovery of damages will be pursued by the Town if any equipment is damaged due to placement of objects in the ROW.

Title 19, Section 1111 (b) prohibits the depositing of "material of any kind within, or to in any wayobstruct a ditch, culvert or drainage course that drains a highway." Snow is not to be pushed or placed into these areas at any time.

Title 23, Section 1126 (a) of Vermont Statutes Annotated prohibits plowing or blowing snow into or across a State or Town highway, shoulder or sidewalk. Although this is hard to avoid, material should not be left such that it creates an obstruction or mound. Violation of this law may result in a fine as determined by the State of Vermont (presently \$70.00). Parking within the right-of-way is discouraged at all times, but prohibited during snow removal conditions. Title 23, Section 1102 of Vermont Statutes Annotated prohibits unattended vehicles from interfering with highway maintenance. Vehicles may be towed without warning.

Public Communication/Information

The Highway Department does not purposely plow snow into private driveways; it is the natural result of plowing operations. When clearing walkways/driveways, individuals should be aware of oncoming plow trucks. Do not attempt to "protect" cleared driveways/walkways by standing at the entrance.

Individuals in close proximity' to oncoming plow trucks may be injured by snow or debris in the snow from the plow or by the plow truck itself.

The construction of snow forts, tunnels or similar structures in roadside snow banks should be avoided.

The Town will investigate any reported damage to mailboxes caused by winter operations. The Town will repair/replace any mailboxes that suffered direct, physical damage from plows or Town equipment if the Select Board determines that the Town is at fault. Damage incurred from heavy snow coming off plows will not warrant repair/replacement. Property owners should properly secure all mailboxes before winter; severely weathered or badly decayed mailbox posts will not be replaced by the Town.

Lawn damage within the ROW can occur, and is, in fact, likely to occur wherever the mowed/maintained edges abut the traveled portions of the roadway. While it is almost inevitable that a certain amount of lawn damage will occur, our highway personnel do their best to prevent and minimize it while striving to maintain the safety and integrity of the highway for the general public. Excessive damage, as determined by the Select Board, may be repaired in the spring or when soil conditions allow.

Conclusion

Vermont winters provide a variety of challenges for town highway personnel, public travelers and private property owners. The adopted Winter Operations Policy should be a source of information and education for the general public. Working together, all entities involved can help to make aspects of winter maintenance easier and winter travel safer for everyone.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of November 22, 2016

- Terry Redfield, Chair
- Herb Childress
- Chris Fenton
- Patty Kenyon

Guidance on Maintenance of Class 4 Roads [2001]

TO ALL RESIDENTS OF MIDDLETOWN SPRINGS AND ESPECIALLY THE RESIDENTS AND LAND OWNERS ON MIDDLETOWN SPRINGS CLASS FOUR (4) ROADS.

The Select Board realizes not all residents on Class 4 roads have received the same treatment. Some have received partial maintenance of their roads; while others have received none.

Therefore, on December 10, 2001 the Select Board voted to cease all winter maintenance/snow plowing on class 4 roads* as of January 1, 2001. 19 VSA 310.

*EXCEPTION: The Class 4 section of the Norton Road will “be maintained to the extent required by the necessity” of winter maintenance of the East end of that Class 3 road. Also the board amended the Town Road Policy, Class 4 Section, page one, addressing the obligations the town should afford its Class 4 roads and residents (the class of a road is a built-in factor on the property valuation). The policy will ensure that all town residents who live on Class 4 roads are treated equally by the town and that people who seek to move or to build or to live on a Class 4 road are aware of the level of road maintenance they can expect from the town. The policy will be reviewed each year.

Guidance on this policy is from the Vermont Local Roads Program, Vermont League of Cities and Towns, 19 VSA 310.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of December 10, 2001

- Name?, Chair
- John Colvin, Vice Chair
- Shirley Moyer, Clerk
- Henry Gerberding
- William Reed

Reclassifying Town Highways [2003]

General Policy

Town highways may be discontinued or Class 3 highways may be downgraded to Class 4 roads or trails by following statutory process.

Procedures

The process for altering, reclassifying, or discontinuing town roads is spelled out in 19 VS A §708-712 and §771-775.

Initiation

Persons who are either voters or landowners, and whose number is at least five percent of the voters in town may petition the Selectboard to have a highway reclassified, altered, laid out, or discontinued. The Selectboard itself may initiate the process if they consider the action to be in the best interests of the Town.

Inspection and Hearing

The Selectboard will set a time and date for inspecting the road in question and holding a hearing. Thirty days notice must be given to abutting landowners or persons having an interest, petitioners, the Planning Commission, and the VT Department of Forests, Parks, and Recreation. Public notice will be posted not less than 10 days before the hearing.

Decision

Within 60 days of the inspection and hearing the Selectboard must make a decision, notify the parties, and have the action recorded by the Town Clerk.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of August 11, 2003

- Fred Bradley, Chair
- Robin Chesnut-Tangerman
- William Reed
- John Colvin
- Shirley Moyer

Clean Fill Policy [2003]

Clean fill will be determined as such by the landowner or owners of properties where fill will be placed for disposal by the town.

Examples of clean fill being disposed of by town are as follows but not limited to: Ditching materials, leaves, insufficient road base, stone, ledge, crushed glass, clean wood products, and other biodegradable products.

Landowner must insure the town that property to be filled in, is in no way considered wet lands. Property owners are responsible for all materials agreed upon for fill on their property or properties at the time of delivery and from thereafter.

The town will not be responsible for any part of landscaping of fill being disposed of, other than leveling as to allow continued dumping.

The town is not responsible for property damage that could occur during delivery. Examples are: septic, water, electric, rutting of driveway or lawn, etc.

The property owner or owners must agree with the terms set in this policy and acknowledge such by a signed and dated copy of such policy.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of May 26, 2003.

- Name, Chair
- Name
- Name
- name
- name

Policies Related to Property and Taxes

Flood Hazard Area Regulations [1999]

Lands to Which These Regulations Apply

These regulations shall apply in all areas in the Town of Middletown Springs, Vermont identified as areas of special flood hazard on the National Flood Insurance Program maps which are hereby adopted by reference and declared to be part of these regulations.

Development Permit Required

A permit issued by the administration officer is required for all development in areas of special flood hazard.

Optional: Conditional use approval by the board of adjustment is required for construction of new buildings, the substantial improvement of existing buildings or floodway development.

Procedures

Prior to Issuing a permit, a copy of the application shall be submitted to the Flood Plain Management Section of the Vermont Department of Environmental Conservation in accordance with 24 V.S.A. 4409. A permit may be issued only following receipt of comments from the Department or the expiration of 30 days from the date the application was mailed to the Department, whichever is sooner.

Adjacent communities and the Vermont Department of Environmental Conservation shall be notified at least 15 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.

Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal, State or Municipal Law.

Base Flood Elevations and Floodway Limits

Flood Hazard areas, base flood elevations and floodway information available from the Vermont Agency of Natural Resources, Department of Environmental Conservation, shall be obtained and reasonably utilized to administer and enforce these regulations.

Development Standards A—Floodway Areas

Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.

Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

B. Fringe Areas (i.e., flooded areas outside of the floodway)

All development shall be designed (i) to minimize flood damage to the proposed development and to the public facilities and utilities, and (ii) to provide adequate drainage to reduce exposure to flood hazards.

Structures shall be (i) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damage, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation. The manufactured home shall be anchored to resist flotation, collapse, or lateral movement during the occurrence of the base flood.

The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.

Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of subsection 7.

Existing buildings to be substantially improved for non-residential purposes shall either (1) meet the requirements of subsection 8, or (2) be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize

hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Duties and Responsibilities of the Administrative Officer

The Administrative Officer shall maintain a record of:

- all permits issued for development in areas of special flood hazard.
- the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings.
- the elevation, in relation to mean sea level, to which buildings have been floodproofed.
- all floodproofing certifications required under this regulation.
- all variance actions, including justification for their issuance.

Variances to the Development Standards

Variances shall be granted by the Board of Adjustment only:

- in accordance with 24 V.S.A. Section 4468 and Section 4412(h) and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.
- upon a determination that during the base flood discharge the variance will not result in increased flood levels.
- upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Definitions

The National Flood Insurance Program definitions contained in 44 CFR Section 59.1 are hereby adopted by reference and shall be used to interpret and enforce these regulations.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of _____.

- Name, Chair
- Name, Vice Chair and Clerk
- Name
- name
- name

Personal Wireless Service and Telecommunications Facilities and Towers Bylaws and Digital Television Facilities and Towers Bylaws [1997]

Introduction: Process for Filing an Application for a Conditional Use Permit (CUP)

When an applicant has determined that they require a site in the Town of Middletown Springs in order to supply telecommunications services to the Town of Middletown Springs, they will initiate the application process by the following procedure:

- 1) The applicant will write a letter to the Selectboard stating their intention to apply for a CUP permit and including a clear statement of their needs and goals in Middletown Springs. They will request to meet with the Selectboard within a reasonable period of time in order to discuss possible sites within the Town in conjunction with the needs of the applicant. The applicant may include, but is not required to include, in this letter a list of at least three possible sites which appear from a summary investigation to be sites which would possibly fulfill the needs of the applicant.
- 2) If the applicant lists specific sites, then the applicant will also notify all adjoining property owners of each site which is under consideration. Property owners at this preliminary stage will be given 30 days notice of the initial hearing/discussion date. The hearing/discussion will be run by the Selectboard in an evening meeting. If all adjoining property owners are not given thirty (30) days notification, then the hearing/discussion of that site which adjoins the property owner who was not notified shall be postponed until the thirty (30) day notification requirement is fulfilled by the applicant. Discussion of the other sites may move forward as planned. The applicant will also post at the Town Clerk's Office, and three other public places in Middletown Springs, a notice of intent to initiate the location of a site in the Town for telecommunications purposes. The purpose of the initial or preliminary hearing/discussion is
 - a) to give the telecommunications applicant an opportunity to explain their goals (immediate and long-term) and needs (technology required to fulfill these goals) to the Selectboard, adjoining property owners, and interested residents of Middletown Springs;
 - b) to give adjoining property owners an opportunity to submit their reasons as to the advantages and disadvantages of each site and to point out aspects of the site which may require special consideration. Adjoining property owners are often highly knowledgeable on the topographical, historical, scenic and water resources as well as other aspects of the locality or may have information indicating a better location and can save both applicant and Selectboard time and money;
 - c) to present to the Board of Selectmen and to the applicant the fullest possible information as to the comparative advantages (technical, topographical, visual and otherwise) and problems of the different sites under preliminary consideration.

At the time that one specific site is decided upon by the Selectboard and the applicant, as a suitable site for the applicant to begin the process of obtaining a CUP from the Town, all adjoining property owners (Adjoining to this site) will be notified by the Applicant. At this point the applicant will also be required to identify and notify all property owners who may not will be visually or aesthetically significantly impacted. If the applicant is proposing a metal tower, self-supporting or guyed, this will involve a large number of people. Due to the

basin shaped topography of Middletown Springs many sites are visible from all over town, or from many different locations in the Town.

The Selectboard may be requested by the applicant to review their notification list and state whether it is sufficient or not. Without being requested, the Selectboard may state that the list of property owners notified is not sufficient if it deems this to be so after careful consideration or after application from property owners who feel they should be notified. When this list is final and complete in the judgment of the Selectboard, then the applicant will use this list for all further notifications. (At the discretion of the Selectboard or upon the request of a property owner, in writing, with reasons given, the Selectboard may add to this finalized list and will forward the name and address to the applicant in writing.) When a Monopole which does not project more than ten (10) feet above the surrounding trees is the goal of the applicant, the applicant will only be required to notify the adjoining property owners. (In a case where an intervening property is very small, the Selectboard may require that the next property owner be notified as well, at the discretion of the Selectboard and/or the request of the next property owner. Repeaters shall be treated the same as Monopoles which do not project more than ten feet above the tree line for purposes of notification of property owners.) Taller Monopoles will require wider notification similar to that required for a tower, depending somewhat on the height and location of the Monopole. Requirements for notification of additional property owners, in general over a wider area, or specific owners, will be at the discretion of the Selectboard or at the request of property owners and will be forwarded in writing to the applicant by the Selectboard.

4. When the applicant has completed their proposal, including all the information required by the Middletown Springs Telecommunications Bylaws, which follow, and has submitted the proper number of copies to the Selectboard and Town Clerk, then the applicant, within seven (7) days of submitting the complete proposal to the Selectboard, will notify all the adjoining and other property owners who are contained in the list which was finalized under section # 3 above. This notification shall be mailed a full sixty (60) days before the date of the hearing to be held in reference to this completed proposal by the Selectboard. The date of the hearing may be contained in this notification or the date of the hearing may be noticed at a later date, but within a reasonable period of time. All adjoining property owners and other property owners who are contained on the finalized list must receive notification of the date of the hearing at least thirty (30) days before the date of the hearing. The date of the hearing will also be posted at the Town Clerk's Office, and three other public places in Middletown Springs. The date will be decided by the Selectboard after consulting with the applicant. The hearing will usually take place at the Selectboard's Monday night meeting. However, the Selectboard will schedule an extra evening if the proposal cannot be reviewed in one hearing, in order to handle this in a timely manner. The Selectboard cannot hold a hearing unless the information submitted by the applicant is complete 30 days or more before the hearing date. This will include all information required by the Telecommunications Bylaws, excepting any portion that has been waived in writing by the Selectboard as irrelevant to the particular site or size or type of tower, structure, repeater, etc. This will also include complete, clear answers to any questions forwarded to the applicant by the Selectboard during the twenty-one (21) days immediately following the applicant's submission of the complete proposal to the

Selectboard. This will further include complete, clear answers to any questions forwarded to the applicant by any expert or technician hired by the Selectboard to review the proposal. The date of the hearing will be postponed by the Selectboard. after consultation with the applicant, if the applicant is unable to return complete, clear answers to any of these questions within seven (7) days or up to the 30th day before the hearing date.

It is the goal of the Town of Middletown Springs to assist in the identification of mutually satisfactory telecommunications sites, and to process and review applications in a timely manner. The Town strongly feels that by conducting this process with a spirit of cooperation on the part of both the Town and the applicant from the inception of the project, both the Town and the applicant will benefit. The common sharing of goals and technical, topographical, and other information will result in well-informed, efficient decision making, and will save time and resources for both the Town and the applicant.

The hearing date will be noticed in the local paper, by the Selectboard, at the expense of the Applicant.

Purposes

The purposes of this Personal Wireless Service, Telecommunication Facilities and Towers, and Digital Facilities and Towers Bylaws are to:

- A. Preserve the scenic and historic character and appearance of the Town of Middletown Springs in accordance with the town plan, while allowing adequate personal wireless and telecommunications services to be developed.
- B. Protect the scenic, historic, environmental, and natural or man-made resources of the town. These resources are an essential part of the economic base of this town and necessary to the health, happiness, and welfare of the Town's residents. The scenic ridgelines, or crestlines, of the hills which encircle the Town and mark its historic boundaries, are considered to be one of the Town's most highly visible and valuable natural resources.
- C. Provide standards and requirements for the regulation, placement, design, appearance, construction, monitoring, modification and removal of personal wireless and telecommunications service facilities.
- D. Provide a procedural basis for action within a reasonable period of time for authorization to site, construct, operate or modify personal wireless and telecommunications service facilities.
- E. Preserve property values.
- F. Locate towers so that they do not have negative impacts, such as, but not limited to, attractive nuisance, noise and falling objects, and the general safety, welfare and quality of life of the citizens of Middletown Springs and all those who visit this community.
- G. Require owners of towers and personal wireless and telecommunications service facilities to configure them so as to minimize and mitigate the adverse visual impact of the towers and facilities and to design them to blend with the scenery and architecture of the site's surroundings.
- H. Require the sharing of pre-existing towers and telecommunications facilities.
- I. Minimize the total number and height of towers throughout the community.
- J. Emphasize the Town's preference for Monopoles, especially of laminated wood,

where pre-existing towers are not available.

Consistency with Federal Law

These regulations are intended to be consistent with all state and federal law, particularly with the Telecommunications Act of 1996 in that a) they do not prohibit or have the effect of prohibiting the provision of Telecommunications or Personal Wireless Services; b) they are not intended to be used to unreasonably discriminate among providers of functionally equivalent telecommunications Services; c) they do not regulate Personal Wireless or Telecommunications Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated Services and Facilities comply with the FCC's regulations concerning such emissions. A finding that a particular portion of these Bylaws is not in accordance with any state or federal law shall only affect the validity of that portion of these Bylaws.

Definitions and Word Usage:

The following terms shall have the meanings indicated. The word "shall" or "will" indicate mandatory requirements; "may" is advisory and indicates recommendations that are not mandatory.

ACT — The Telecommunications Act of 1996.

ADEQUATE COVERAGE — Coverage is considered to be "adequate" within that area surrounding a Base Station where the predicted or measured median field strength of the transmitted signal is greater than -90 dbm. It is acceptable for there to be holes within the area of Adequate Coverage where the signal is less than -90 dbm, as long as the signal regains its strength further away from the Base Station. For the limited purpose of determining whether the use of a Repeater is necessary or desirable, there shall be deemed not to be Adequate Coverage within said holes. The outer boundary of the area of Adequate Coverage, however, is that location past which the signal does not regain a strength of greater than -90 dbm.

ADEQUATE CAPACITY — Capacity is considered to be "adequate" if the Grade of Service is p.05 or better for at least 50% of the days in a preceding month, prior to the date of Application, as measured using direct traffic measurement of the Personal Wireless or telecommunications Service Facility in question, where the call blocking is due to frequency contention at the antenna(s).

ANTENNA — A device which is attached to a Tower, or other structure for transmitting and receiving electromagnetic waves. It is a device which converts radio frequency electrical energy to radiated electromagnetic energy.

AVAILABLE SPACE — The space on a Tower or structure to which antennas of a Personal Wireless and telecommunications Service Provider are both Structurally Able and Electromagnetically Able to be attached.

BULLETIN 65 — Published by the FCC Office of Engineering and Technology specifying radiofrequency radiation levels and methods to determine compliance.

BASE STATION — The primary sending and receiving site in a wireless telecommunications network. More than one Base Station and/or more than one variety of Personal Wireless or telecommunications Service Provider can be located on a single Tower or structure.

CHANNEL — The segment of the radiation spectrum from an Antenna which carries one signal. An Antenna may radiate on many Channels simultaneously.

COMMUNICATION EQUIPMENT SHELTER — A structure located at a Base Station designed principally to enclose equipment used in connection with Personal Wireless Service, telecommunications, and digital TV transmissions.

CUP — Conditional Use Permit.

DBM — Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

ELECTROMAGNETICALLY ABLE — The determination that the new signal from and to the proposed new Antennas will not significantly interfere with the existing signals from and to other Facilities located on the same Tower or structure as determined by a qualified professional telecommunications engineer. The use of available technologies to alleviate such interference shall be considered when making this determination.

EMF — Electromagnetic Frequency Radiation.

FACILITY SITE — A Property, or any part thereof, which is owned or leased by one or more Personal Wireless, telecommunications, or digital TV Service Providers and upon which one or more Personal Wireless, telecommunications, or digital TV Service Facility(s) and required landscaping are located.

FCC — Federal Communications Commission. The Government agency responsible for regulating telecommunications in the United States.

FCC 97-303 — A Report and Order which sets new national standards for emissions of Radio-Frequency emissions from FCC-regulated transmitters.

GHZ — Gigahertz: One billion hertz.

GRADE OF SERVICE — A measure of the percentage of calls which are able to connect to the Base Station, during the busiest hour of the day. Grade of Service is expressed as a number, such as p.05 — which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better Grade of Service.

HERTZ — One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

LOCATIONS — References to site location shall be the exact longitude and latitude, to the nearest tenth of a second: bearing or orientation should be referenced to true North.

MAJOR MODIFICATION OF AN EXISTING FACILITY — Any change to exterior appearance, size, color, height, fencing, screening. Any change, or proposed change, in power input or output, number of Antennas, change in Antenna type or model, repositioning of Antenna(s), change in number of Channels per Antenna above the maximum number approved under an existing CUP. Any addition or change in position of microwave dishes. Any change in the content of the building, such as, but not limited to, the addition of computer equipment, change in generator size, addition or change in size of air conditioners, fuel tanks, fire fighting equipment. The addition of one or two antennae may be considered a minor change, at the discretion of the Selectboard and after 30-day notification of adjoining property owners. In this case, irrelevant application requirements may be waived by the Selectboard.

MAJOR MODIFICATION OF AN EXISTING TOWER — Any change in dimensions, height or width, of an existing and permitted Monopole, Tower, or other structure

designed to support Personal Wireless or telecommunications Service transmission, receiving and/or relaying antennas and/or equipment or digital television equipment. This includes addition of lights, guy wires, a color change, or the addition of microwave dishes.

MHZ — Megahertz: One million hertz.

MONITORING — The measurement, by the use of instruments in the field, of the nonionizing radiation exposure from a Site as a whole, or from individual Personal Wireless or telecommunications Service Facilities, Towers, Antennas or Repeaters.

MONITORING PROTOCOL — The testing protocol, initially the Cobbs Protocol (or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, Reports 86 and 119), which is to be used to monitor the emissions from existing and new Personal Wireless and telecommunications Service Facilities upon adoption of this Bylaw.

MONOPOLE — A single self-supporting vertical pole with no guy wire anchors, consisting of a galvanized or other unpainted metal, or a wooden pole with below grade foundations.

PERSONAL WIRELESS SERVICES — All telecommunications services. Commercial Mobile Services, unlicensed wireless services, and common carrier wireless exchange access services using duly authorized devices which do not require individual licenses. These services include: cellular radiotelephone services, personal communications services (PCS), Specialized Mobile Radio Services, and Paging Services. For the purposes of this Bylaw, all regulations included herein that apply to "personal wireless services" will also apply to all telecommunications services and to all digital TV services.

PERSONAL WIRELESS SERVICE FACILITY — All equipment (including any Repeaters, antenna, equipment mounting structures, and accessory equipment) with which a Personal Wireless or telecommunications Service Provider broadcasts and receives the radio-frequency waves which carry their services and all locations of said equipment or any part thereof. This Facility may be sited on one or more Towers or structure(s) owned and permitted by another owner or entity.

PERSONAL WIRELESS SERVICES — Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. These services include: cellular services, personal communications services, specialized mobile radio services, and paging services.

PRE-EXISTING — Existing before December 16, 1997.

RADIAL PLOTS — Radial plots are the result of drawing equally spaced lines (radials) from the point of the antenna, calculating the expected signal and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial; a threshold plot would use a mark to indicate whether that point would be strong enough to provide adequate coverage—i.e., the points meeting the threshold of adequate coverage. The drawback is the concentration of points close to the antenna and the divergence of points far from the site near the ends of the radials.

RADIATED-SIGNAL PROPAGATION STUDIES OR COVERAGE PLOTS — Computer generated estimates of the signal emanating, and prediction of coverage, from Antennas or Repeaters sited on a specific Tower or structure. The height above

ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tool for determining whether a site will provide Adequate Coverage for the personal wireless service or telecommunications Facility proposed for that site.

REPEATER — A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive Adequate Coverage directly from a Base or Primary Station.

SELECTBOARD — The Town of Middletown Springs, Vermont, Selectboard.

STRUCTURALLY ABLE — The determination that a Tower or structure is capable of carrying the load imposed by the proposed new Antennas, microwave dishes, and other equipment, under all reasonably predictable conditions as determined by professional structure engineering analysis.

TELECOMMUNICATIONS FACILITY — All equipment (including repeaters) with which a telecommunications provider broadcasts and receives the radio-frequency waves which carry their services and all locations of said equipment or any part thereof, including backup equipment (i.e. generators, air conditioners, fuel storage tanks).

This facility may be sited on (or at) one or more towers or structures owned and permitted by another owner or entity.

TELECOMMUNICATIONS PROVIDER OR PERSONAL WIRELESS SERVICES PROVIDER — An entity, licensed by the FCC to provide telecommunications services to individuals or institutions.

TILED COVERAGE PLOTS — Tiled plots resulting from calculating the signal at uniformly spaced locations on a rectangular grid, or tile, of the area of concern. Unlike radial plots, tiled plots provide a uniform distribution of points over the area of interest; usually the same grid will be used as different sites are examined, and it is not necessary that the transmitter site be within the grid or area of interest. As with radial plots, the graphic display or plot can be either signal strength or adequate threshold. This method requires substantially more topographic data and longer (computer) execution time than radial plots, but is preferable for comparative analysis.

TOWN — The Town of Middletown Springs, Vermont.

TOWER — A lattice structure or framework, or Monopole, that is designed to support Personal Wireless or telecommunications Service transmission, receiving and/or relaying antennas and/or equipment or which is designed to support digital television transmitting equipment.

Exemptions

The following wireless telecommunications facilities are exempt: police, fire, ambulance and other emergency dispatch; amateur (ham) radio; citizens band radio; any existing commercial radio tower; radio dispatch services for local businesses. No Personal Wireless, or Telecommunications Service tower or facility, or any digital TV tower or facility shall be considered exempt from this Bylaw for any reason whether or not said Facility is proposed to share a Tower or other structure with such exempt uses.

Provision of Independent Consultants

- A. Upon submission of an Application for a Conditional Use Permit (CUP) under this Article, the Selectboard may hire independent consultants whose services shall be paid for by the Applicant. These Consultants shall each be qualified professionals with a record of service to municipalities in one of the following fields: a) telecommunications/radiofrequency engineering, b) structural engineering, c) assessment of electromagnetic fields, and, if determined necessary by the Selectboard, d) other fields. Reasons shall be given by the Selectboard, in writing, to the Applicant, for the hiring of each consultant prior to the hiring of the consultant.
- B. The Selectboard shall select the Independent Consultant(s) from a list of qualified candidates.
- C. Upon submission of a complete Application for a CUP under this Article, the Selectboard shall provide its Independent Consultant(s) with the full Application for their analysis and review.
- D. Applicants for any CUP under this Article shall obtain permission from the Owner(s) of the proposed property(s) or Facilities Site(s) for the Town's Independent Consultant(s), to conduct any necessary site visit(s).

Application Requirements

Applicants for CUP's shall file with the Middletown Springs Town clerk three (3) copies, and with the Selectboard, six (6) copies of the following documents.

- A. A CUP must be obtained from the Town Selectboard before any Tower or personal Wireless or telecommunications Service Facility shall be erected, constructed, or installed in the Town of Middletown Springs. A CUP is required for a) new Tower construction or Major Modification of an Existing Tower; b) construction of new Personal Wireless or Telecommunications Service Facilities or Major Modification of an Existing Facility c) addition to or mounting of any new equipment such as. but not limited to. antennas, microwave dishes, repeaters, or lights, on a Tower or any other structure: d) installation of all digital TV equipment. The following information must be submitted:
- B. Adequate Coverage, Adequate Capacity, and Justification of Need:
 - 1. Applicant shall provide written documentation of any Facility Sites in Middletown Springs, in abutting towns, and within a 30 mile radius of a proposed site in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. From each such Facility Site, it shall demonstrate with written documentation that these Facility Sites are not

already providing, or do not have the potential by adjusting the Site, to provide Adequate Coverage and/or Adequate Capacity to the Town. The documentation shall include, for each Facility Site listed, the exact location (in longitude and latitude, to degrees, minutes and seconds), ground elevation, height of Tower or structure, type of Antennas, Antenna gain, height of Antennas on Tower or structure, output frequency, number of channels, power input and maximum power output per channel. Potential adjustments to these existing Facility Sites, including changes in Antenna type, orientation, gain, height or power output shall be specified. Radial or Tiled Coverage Plots from each of these Facility Sites, as they exist, and with adjustments as above, shall be provided as part of the Application. All sites shall be plotted on a topographical map of the area within a 30-mile radius of the proposed site.

2. Applicant shall demonstrate, with written documentation, that they have examined all Facility Sites located in Middletown Springs, in abutting towns and within a 30-mile radius of a proposed site in which Applicant has no legal or equitable interest, whether by ownership, leasehold or otherwise to determine whether those existing Facility Sites can be used to provide Adequate Coverage and/or Adequate Capacity to the Town. The documentation shall include, for each Facility Site examined, the exact location (in longitude and latitude, to degrees, minutes and seconds), ground elevation, Height of Tower or structure, type of Antennas proposed, proposed Antenna gain, height of proposed Antennas on Tower or structure, proposed output frequency, proposed number of channels, proposed power input and proposed maximum power output per channel. Radial or Tiled Coverage Plots from each of these Facility Sites, as proposed, shall be provided as part of the Application.
3. Applicant shall demonstrate with written documentation that they have analyzed the feasibility of Repeaters in conjunction with all Facility Sites listed in compliance with VI. B. 1&2 (above) to provide Adequate Coverage and/or Adequate Capacity to the Town of Middletown Springs. Radial or Tiled Coverage Plots of all Repeaters considered for use in conjunction with these Facility Sites shall be provided as part of the Application.
4. The applicant should also demonstrate which portion of a tower or structure and which antennae, if any, are to reduce or eliminate reliance on land lines, or otherwise provide communications capability to the applicant, as opposed to providing direct service to customers
5. All applications shall be accompanied by a written five-year plan for the utilization of the proposed facilities. This plan should include justification for capacity in excess of immediate needs as well as plans for any further development within the town.

C. Required Documentation:

1. Copies of all submittals and showings pertaining to: FCC licensing; Environmental Impact Statements; FAA Notice of Construction or Alteration; Aeronautical Studies; and, all data, assumptions and calculations relating to service coverage and all calculations and /or measurement data related to nonionizing radiation emissions and exposure regardless of whether categorical exemption from Routine Environmental Evaluation under the FCC rules is claimed.

2. The exact legal name, address or principal place of business, and phone number of the Applicant. If any Applicant is not a natural person, it shall also give the state under which it was created or organized.
 3. The name, title, address and phone number of the person to whom correspondence or communications in regard to the application are to be sent. Notice, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon the Applicant.
 4. Name, address, phone number, and written consent to apply for this permit, of the owner of the property on which the proposed Tower shall be located, or of the owner(s) of the tower or structure on which the proposed Facility shall be located. A mitigating factor will be direct access to the site from a public highway, rather than the use of a private Right of Way over an adjoining property owner's land.
 5. Details of proposed method of financial surety as required in Section XII - Removal Requirements.
 6. Person to be contacted in the event of an emergency involving the facilities. This should be someone available on a 24-hour basis who has authority by the applicant to act on behalf of the applicant regarding an emergency situation.
 7. Required Plans and engineering plans, prepared, stamped and signed by a Professional Engineer licensed to practice in Vermont. (Note: survey plans should also be stamped and signed by a Professional Land Surveyor registered in Vermont.) Plans shall be on 24" x 36" sheets, on as many sheets as necessary, and at scales which are no smaller (i.e. no less precise) than listed below, and which show the following information:
 - a. Each plan sheet shall have a title block indicating the project title, sheet title, sheet number, date, revision dates, scale(s), and original seal and signature of the P.E. and other professionals who prepared the plan.
- D. For new Tower construction, or Major Modification of an Existing Tower a CUP is required.
1. Applicant shall provide a written, irrevocable commitment valid for the duration of the existence of the Tower, to rent or lease Available Space for co-location on the Tower at fair market prices and terms, without discrimination to other Personal Wireless or Telecommunications Service Providers.
 2. If Applicant is not simultaneously applying for a Personal Wireless or Telecommunications Service Facilities CUP, it shall provide a copy of its existing lease/contract with a Personal Wireless or Telecommunications Service Provider. A Tower Construction CUP shall not be granted for a Tower to be built on speculation. This includes digital TV tower applications.
 3. The following plans and maps:
 - a. Location Map: Copy of a portion of the most recent U.S.G.S. Quadrangle map, at a scale of 1:25,000, and showing the area within at least two miles from the proposed tower site. Indicate the Tower location and the exact Latitude and Longitude (degrees, minutes and seconds to nearest tenth).
 - b. Vicinity Map at a scale of 1" = 200' (1:2400) with contour intervals no greater than 10 feet (3 meter) showing the entire vicinity within a 2500'

radius of the Tower site, and including the topography, public and private roads and driveways, buildings and structures, bodies of water, wetlands, landscape features, historic sites including foundations, habitats for endangered species. Indicate the property lines of the proposed Tower Site Parcel and of all abutters to the Tower Site Parcel, (from assessors maps or available surveys). Indicate any access easement or right of way needed for access from a public way to the Tower, and the names of all abutters or property owners along the access easement or who have deeded rights to the easement.

- c. Existing Conditions Plan: A recent survey of the area within 1,000 feet of the Tower Site at a scale no smaller than 1" = 40' (1:480 or metric equivalent 1:500) with topography drawn with a minimum of 10-foot (3-meter) contour intervals, showing existing utilities, property lines, existing buildings or structures, old cellar holes or foundations, historic school district sites, stone walls or fence lines, and wooded areas. Show the boundary of any wetlands or floodplains or watercourses, and of any bodies of water included in the Watershed Protection District within 500' of the Tower or any related facilities or within 500 feet of any access roads, private ROW'S, power access routes, or appurtenances. The topographical survey plan must have been completed, on the ground, by a Professional Land Surveyor within two (2) years prior to the application date.
- d. Proposed Site Plans: Proposed Facility Site layout, grading and utilities at the same scale or larger than the Existing Conditions Plan.
 - i. Proposed Tower location and any appurtenances, including supports and guy wires, if any, and any accessory building (Communication Equipment Shelter or other). Indicate property boundaries and setback distances to the base(s) of the Tower and to the nearest corners of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements on a topographical map.
 - ii. Indicate proposed spot elevations at the base of the proposed Tower and at the base of any guy wires, and the corners of all appurtenant structures.
 - iii. Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility of communication lines, and whether underground or above ground.
 - iv. Any direct or indirect wetlands alteration proposed.
 - v. Detailed plans for drainage of surface and/or sub-surface water; plans to control erosion and sedimentation both during construction and as a permanent measure.
 - vi. Plans indicating locations and specifics of proposed screening, landscaping, ground cover, fencing, etc.; any exterior light or signs.
 - vii. Plans of proposed access driveway or roadway and parking area at tower site. Include grading, drainage, traveled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface materials. Where new telecommunications towers. Monopoles, or facilities require construction of or

- improvement to access roads, to the extent practicable, roads shall follow the contour of the land, and be constructed or improved within existing forest or forest fringe areas, and not in open fields. Utility and service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area, by following the natural contours of the land and maintaining a height equal to or less than surrounding tree height.
- e. Proposed Tower and Appurtenances:
 - i. Plans, elevations, sections and details at appropriate scales but no smaller than 1" = 10'.
 - ii. Two cross sections through proposed Tower drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of clearing, and showing any-guy wires or supports. Dimension the proposed height of tower above average grade at Tower Base. Show all proposed antennas, including their location on the Tower.
 - iii. Details of proposed Tower foundation, including cross sections and details. Show all ground attachments, specifications for anchor bolts and other anchoring hardware.
 - iv. Detail proposed exterior finish of the Tower and explain reasons for color or finish chosen.
 - v. Indicate relative height of the Tower to the tops of surrounding trees as they presently exist, and the height to which they are expected to grow in ten years. Include diagram showing trees which border the proposed site and their individual heights.
 - vi. Illustration of the modular structure of the proposed Tower indicating the heights of sections which could be removed or added in the future to adapt to changing communications conditions or demands.
 - vii. A Structural Professional Engineer's written description of the proposed Tower structure and its capacity to support additional Antennas or other communications facilities at different heights and the ability of the Tower to be shortened if future communications facilities no longer require the original height.
 - viii. A description of Available Space on the Tower, providing illustrations and examples of the type and number of Personal Wireless Service Facilities which could be mounted on the structure.
 - f. Proposed Communications Equipment Shelter:
 - i. Floor Plans, elevations and cross sections at a scale of no smaller than 1/4" = 1'(1:48) of any proposed appurtenant structure.
 - ii. Representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials.
 - iii. See Section E. 1. c. "Proposed Communications Equipment Shelter" for further requirements.
 - g. Sight Lines:
 - i. A minimum of eight (8) view lines in a zero (0) to two (2) mile radius

from the site, shown beginning at True North and continuing clockwise at forty-five degree (45°) intervals and any other significantly visually impacted area.

- ii. A plan map of Middletown Springs on which any visibility of the proposed Tower from a public way shall be indicated.
- iii. Power line Route: A topographical map showing exact route of power lines, whether above ground or underground, height of poles where they are used, width of swathe of trees to be cut, and a computer simulation of the change to the landscape which tree removal and installation of poles and wires (unless underground) will bring about. One computer simulation 30 inches by 40 inches, will be submitted. Copies may be 8 by 10 inches. Copy of contract with company that will install power lines. Copy of contract with company that will supply power.

h. Balloon Test:

Within thirty-five (35) days of submitting an Application, Applicant shall arrange to fly, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the maximum height of the tower and within fifty (50) horizontal feet of the center of the proposed Tower. The dates, times and location of this balloon test shall be advertised by the Applicant, at seven (7) and fourteen (14) days in advance of the test date in *The Rutland Herald*, and prominently posted in the Town Clerk's Office and three public sites in Middletown Springs. The Applicant shall inform the Selectboard and the Planning Commission, in writing, of the dates and times of the test at least 14 days in advance. The balloon shall be flown for at least four consecutive hours sometime between 9:00 a.m. and 5:00 p.m. of the dates chosen. The applicant shall develop and submit to the Planning Commission a written analysis of the visual impact of the proposed tower. This analysis shall include photographs of the balloon test taken from at least ten (10) different perspectives within the Town of Middletown Springs, including simulations from adjoining properties. Original simulations will be 30 by 40 inches. Copies may be 8 by 10 inches.

E. For new Personal Wireless or Telecommunications Service Facility, or Major Modification of an Existing Facility, a Personal Wireless Service Facility CUP is required.

1. The following plans and maps:

- a. Location Map: Copy of a portion of the most recent U.S.G.S. Cuadrangle map, at a scale of 1:25,000, and showing the area within at least two miles from the proposed Facility Site. Indicate the location of the proposed Personal Wireless Service Facility, or of the Facility undergoing Major Modification, and the exact latitude and longitude (degrees, minutes and seconds).
- b. Proposed Facility Plan: A recent survey of the Facility Site at a scale no smaller than 1" = 40' (1:480 or metric equivalent 1:500) showing:
 - i. Horizontal and radial distances of Antenna(s) to nearest point on property line.
 - ii. Horizontal and radial distances of Antenna(s) to nearest dwelling unit.
 - iii. Proposed utilities, including distance from source of power, sizes of

service available and required, locations of any proposed utility or communication lines, and whether underground or above ground. The route of proposed utility lines will be plotted on a topographical map.

- iv. Any changes to be made to the existing Facility's landscaping, screening, fencing, lighting, drainage, wetlands, grading, driveways or roadways, parking, or other infrastructure as a result of this proposed Modification of the Facility.
- c. Proposed Communications Equipment Shelter:
 - i. Floor Plans, elevations and cross sections at a scale of no smaller than $1/4' = 1''$ (1:48) of any proposed appurtenant structure.
 - ii. Representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials.
 - iii. List of proposed equipment to be housed in the Equipment Shelter. Heat output of equipment. Power requirements of equipment. Twelve-Month Graph of average temperature outside the Shelter. Justification for size of air conditioners if they are included. Estimated hours that they will run on a monthly basis. Sound level in decibels. Use of fans will be considered a mitigating factor. The ambient noise level in many locations in the Town is often close to 0 or silence. The use of air conditioners 24 hours a day more than one day a month will be considered to have an aesthetic impact, which will need to be evaluated carefully by the Selectboard.
 - iv. Generator for backup power. Size of generator in kilowatts. Explanation for size of generator, broken down in kilowatts per equipment. Noise level in decibels. Muffler system to be used and resulting noise level in decibels. Estimate of hours of operation per month based on average power outages from the past year plus hours of test operation per month. (Testing will be done 9 a.m. to 5 p.m., Monday through Friday.) Include diesel requirements per hour.
 - v. Diesel Fuel. How will the diesel, or other, fuel be stored. Size, location and type of tanks. How will it be delivered. How often. Contract with diesel fuel company that specifies the size of the delivery vehicle and evaluates the conditions of the proposed access at different seasons of the year. Emergency clean up plan. Contract with the company that would carry this out, including their estimate of response time. Topographical map showing water resources that could be affected.
 - vi. Lead Batteries. Plan for removal. Backup in case of leakage.
 - vii. Hazardous chemicals. Complete list of any other hazardous, flammable, or environmentally unfriendly chemicals that will be present in the Communications Equipment Shelter, or elsewhere on the site.
- d. Proposed Equipment Plan:
 - i. Plan, elevations, sections and details at appropriate scales, but no smaller than $1'' = 10'$.
 - ii. Number of Antennas and Repeaters and microwave dishes, as well as the exact locations, of Antenna(s) and of all Repeaters (if any) and microwave dishes located on a map as well as by Degrees, minutes

- and seconds of latitude and longitude.
- iii. Mounting locations on Tower or structure, including height above ground.
- iv. Antenna type(s), manufacturer(s), model number(s).
- v. For each Antenna, the Antenna gain and Antenna radiation pattern.
- vi. Number of channels per Antenna, projected and maximum.
- vii. Power input to the Antenna(s).
- viii. Power output, in normal use and at maximum output for each Antenna and all Antennas as an aggregate.
- ix. Output frequency of the Transmitter(s).

F. Minor Alterations:

When there are no alterations to Tower size or appearance, or Monopole size or appearance or the exterior of the utility buildings, then the Selectboard, after 30 days notice to adjoining property owners, may find that the modifications are minor. In this case, the Selectboard may choose to waive any part or parts of the above requirements which are found, in the Selectboard's opinion, and with the agreement of all adjoining property owners, to be irrelevant and therefore unnecessary. Installation of repeaters on pre-existing structures may, according to the opinion of the Selectboard, and after notification of adjoining property owners (30 Days), come under this category.

General Requirements

- A. New Towers shall be set back at least 200 feet (two hundred feet) from all boundaries of the Site on which the Tower is located. (This requires approximately four acres in approximately square configuration.) The setback for a monopole shall be equal to the height of the monopole.
- B. If the Facility or Tower Site is in a wooded area, a vegetated buffer strip of undisturbed trees shall be retained for at least 150 (one hundred and fifty) feet in width around the entire perimeter of the site except where the access drive is located. Applicant shall obtain a financial surety to cover the cost of the remediation of any damage to the landscape that occurs during the clearing of the Site. In all locations a non-deciduous vegetative screen of twenty (20) feet in depth and six (6) feet in height shall be maintained at all times. Vegetation shall be of a type that has the potential to reach a height of at least fifteen (15) feet at maturity. Existing vegetation surrounding the site shall be preserved and maintained to the greatest extent possible.
- C. Fencing and Signs: The area around the Tower and Communication Equipment Shelter(s) shall be completely fenced for security to a height of six (6) feet and gated. Use of razor wire is not permitted. A sign, no greater than two (2) square feet, indicating the name of the facility owner(s) and a 24-hour emergency telephone number shall be posted adjacent to the entry gate. In addition, "No Trespassing" or other warning signs may be posted on the fence.
- D. Communication Equipment Shelters and Accessory Buildings shall be designed to be architecturally similar and compatible with each other and with predominant Middletown Springs architecture, (clapboard exteriors

- predominate) and shall be no more than twelve (12) feet high. The buildings shall be used only for the housing of equipment related to this particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building.
- E. New Towers shall not exceed the minimum height necessary to provide Adequate Coverage for the Town of Middletown Springs for the Personal Wireless Service Facilities proposed for use on the Tower. Applicant may submit a request for additional height to accommodate future sharing and shall provide design information to justify such additional height.
 - F. Tower Finish: New Tower(s) shall have a white finish unless otherwise required. The Selectboard, following discussions with adjoining property owners, may require the Tower(s) to be painted another color or otherwise camouflaged to minimize the adverse visual impact. Wood monopoles, which are surrounded by trees, will be considered camouflaged without painting. In any highly visible location or otherwise historically or aesthetically sensitive location, pine branches will be requested by the Selectboard, after discussion with adjoining property owners. Camouflage is a significant factor in preventing property devaluation and should be developed to the utmost that current technology allows. At least two methods of camouflage will be submitted by the applicant.
 - G. Tower must be of a type that will minimize visual impact. Location on pre-existing towers is the primary preference of the Town. Location on other pre-existing structures is preferable to erecting new structures. Monopoles that do not break the Crestline or project more than ten (10) feet above the treeline are considered to include mitigation in their design. Laminated Wood is the preferred material. Camouflage of these poles using artificial pine branches and bark are further visual mitigation, which will be considered to greatly reduce the aesthetic impact on surrounding properties.
 - H. The use of Repeaters to assure Adequate Coverage, or to fill holes within areas of otherwise Adequate Coverage, while minimizing the number of required Towers is permitted and encouraged. Applicants shall detail the number, location, power output, and coverage of any proposed Repeaters in their systems and provide engineering data to justify their use.
 - I. If primary coverage (greater than 50%) from proposed Personal Wireless Service Facility is outside Middletown Springs, then permit may be denied unless the Applicant can show that they are unable to geographically locate within the Town that is primarily receiving service from the proposed Facility.
 - J. Commercial advertising shall not be allowed on any Antenna, Tower; or Accessory Building or Communication Equipment Shelter.
 - K. Unless required by the Federal Aviation Administration, no night lighting of Towers, or the exterior of Personal Wireless Service Facilities or buildings; is permitted, except for manually operated emergency lights for use only when operating personnel are on site.
 - L. No Tower or Personal Wireless Service Facility that would be classified as a hazard to air navigation, as defined by the Federal Aviation regulations (Title 14 CFR) is permitted.
 - M. No Tower or Personal Wireless Service Facility with the exception of Monopoles, Repeaters or Single Antennas shall be located:
 - 1. Closer than one thousand (1000) feet, on a horizontal plane, to any

- structure existing at the time of Application that is, or is able to be, occupied or habitable, to the property of any school (both public and private), to an existing Dwelling Unit, day-care center, hospital, nursing home, church, or other place of worship, or to any other public building.
2. No Repeater shall be located closer than fifty (50) feet to an existing Dwelling Unit, nor more than forty (40) feet above ground. When a repeater is attached to a pre-existing structure, the height and or horizontal distances may be waived at the discretion of the Selectboard after careful studies. No Monopole may be located closer than one-hundred-fifty (150) feet to an existing dwelling.
 3. Within any of the following prohibited areas:
 - a. Vermont or federally regulated wetland;
 - b. Vermont Certified Vernal Pool;
 - c. The habitat of any State-listed Rare or Endangered Wildlife or Plant Species;
 - d. Within 200' horizontally from any Vermont or federally regulated wetland;
 - e. Within the 200' horizontally of the Outer Riparian Zone measured horizontally from any river or perennial stream;
 - f. Within 1,500' horizontally from any Historic District or property listed or eligible to be listed on the state or federal Register of Historic Places;
 - g. Within 500' horizontally from any known archaeological site.
- N. Parameters of appropriate siting:
1. Monopoles, Towers, and Personal Wireless Service Facilities shall be located so as to minimize the following potential impacts:
 - a. Visual/Aesthetic: Monopoles and Towers shall be sited off ridge lines and in locations where their visual impact is least detrimental to highly rated scenic and pristine areas or to historical areas and districts.
 - b. Diminution of residential or agricultural property values. Every effort will be made using camouflage, environmentally compatible materials, architecturally compatible design, repeaters, and careful studies of minimum required height to avoid and prevent property devaluation and consequent increased tax burden to other residents of Middletown Springs. Middletown Springs fully believes that adequate coverage of the Town of Middletown Springs can be achieved in conjunction with the above goal through careful review and access to complete information regarding the needs of the Applicant.
 - c. Safety: In case of structural failure.
 - d. Safety from excessive electromagnetic radiation: In case the Tower or Personal Wireless Service Facility is found to exceed the FCC guidelines, penalties will be enacted. See Fee Schedule for Towers and Telecommunications Facilities.
 2. Towers and Personal Wireless and telecommunications Service Facilities shall be located so as to provide Adequate Coverage and Adequate Capacity with the least number of Towers, Monopoles, and Antennas

which are technically and economically feasible. Monopoles, repeaters, and antennas will be considered less damaging to the scenery and aesthetics of the Town.

Approved Criteria

- A. In acting on the CUP Application the Selectboard shall proceed in accordance with Middletown Springs Interim Bylaws for Personal Wireless Service, Telecommunications and Digital TV. The Town and Selectboard herein state that the first step in obtaining a CUP is that the Applicant come to the Selectboard in order to identify several possible sites and to then discuss the advantages and disadvantages of each of these sites both to the Town and to the Applicant, before the Applicant proceeds with requirements for studies and paperwork for the CUP. It is the desire of the Town to avoid waste of time and resources for both the Town and the Applicant, by conducting this process with a spirit of cooperation. The sharing of goals and information from the inception of the project on the part of both the Town and the Applicant will result in well-informed decision making and efficiency. Both Town and Applicant will benefit.
- B. In addition, the Selectboard shall in consultation with the Independent Consultant(s), make all of the applicable findings before granting the CUP. as follows:
 - 1. That Applicant is not already providing Adequate Coverage and/or Adequate Capacity to the Town of Middletown Springs; and
 - 2. That Applicant is not able to use Pre-Existing Towers/Facility Sites either with or without the use of Repeaters to provide Adequate Coverage and/or Adequate Capacity to the Town of Middletown Springs; and that the applicant has studied pre-existing structures such as church steeples, silos, etc., and none will serve to hold antennas, or repeaters, and has submitted site studies to the Town to demonstrate areas considered, including all information requested by the Selectboard.
 - 3. Clustering of Towers: Applications for Towers adjacent to Pre-Existing Towers shall be encouraged.
 - 4. That the Applicant has agreed to rent or lease Available Space on the Tower, under the terms of a fair-market lease, without discrimination to other Personal Wireless Service Providers; and
 - 5. That proposed Personal Wireless Service Facility, monopoles, repeaters or Tower should make use of available municipal lands and suitable existing municipal and privately owned structures and will not have an undue adverse impact on historic resources, scenic views, residential and agricultural property values, natural or man-made resources: and
 - 6. That the Applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities; and to locate towers and facilities off ridge lines, and to locate where their visual impact is least detrimental to highly rated scenic areas in Middletown Springs, and,
 - 7. That the proposal shall comply with FCC Reg. 97-303 and procedures outlined in FCC Bulletin 65 regarding emissions of electromagnetic radiation and that the required Monitoring program is in place and shall

- be paid for by the Applicant, and
- 8. That the applicant has endeavored to provide adequate coverage and adequate capacity to the Town of Middletown Springs with the least aesthetically damaging impact that is technically feasible.
- C. Any decision by the Selectboard to deny an Application for a CUP under this Bylaw shall be in conformance with 47 U.S.C. §332 (7)(B)(iii) of the Telecommunications Act, in that it shall be in writing and supported by substantial evidence contained in a written record.

Monitoring and Evaluation of Compliance

- A The Selectboard may, as the technology changes, require the use of testing protocols other than the Cobbs Protocol. A copy of the Monitoring Protocol shall be on file with the Board of Selectmen and the Town Clerk.
- B. Pre-testing; After the granting of a CUP and before Applicants Personal Wireless Service Facilities begin transmission, the applicant shall submit a report, prepared by an independent telecommunications engineer certified in the State of Vermont, on the background levels of non-ionizing radiofrequency radiation around the proposed Facility Site and/or any Repeater locations to be utilized for Applicant's Personal Wireless or telecommunications Service Facilities. The Independent engineer shall use the Monitoring Protocol. This report shall be submitted to the Board of Selectmen and the Town Clerk for posting.
- C. Post-testing: After transmission begins, the owner(s) of any Personal Wireless Service Facility(s) located on any Facility Site shall submit reports prepared by an independent telecommunications or radiofrequency engineer certified by the State of Vermont regarding any non-ionizing radiofrequency radiation emitted from said Site, and to report results as follows:
 - 1. There shall be routine annual Monitoring of emissions by the Independent engineer using actual field measurement of radiation, utilizing the Monitoring Protocol. This Monitoring shall measure levels of non-ionizing radiofrequency radiation from the Facility Site's primary Antennas as well as from Repeaters (if any). A report of the Monitoring results shall be prepared by the Independent Engineer and submitted to the Selectboard, the Town Clerk for posting.
 - 2. Any Major Modification of Existing Facility, or the activation of any additional permitted channels, shall require new Monitoring.
- D. Excessive Emissions: Random monitoring of a Facility Site by the Town will take place up to twelve (12) times a year. The cost of this monitoring, at going rates, will be included in the issuance of a permit. Should the Monitoring of a Facility Site reveal that the Site exceeds the FCC current standards, then the owner(s) of all Facilities utilizing that Site shall be so notified. Abutting property owners shall also be immediately notified by certified mail. In accordance with FCC requirements, the owner(s) must immediately reduce power or cease operation as necessary to protect persons having access to the site, tower or antennae. Additionally, the owner(s) shall submit to the Selectboard and the Building Inspector a plan for the reduction of emissions to a level that complies with the FCC 97-303 standard within 10 business days of notification of non-compliance. That plan shall reduce emissions to the standard within 15 days of initial

notification of non-compliance. Failure to accomplish this reduction of emission within 15 business days of initial notification of non-compliance shall be a violation of the CUP and violations are subject to penalties as provided in the Fee Schedule for Towers and Telecommunications Facilities.

- E. Structural Inspection: Tower owner(s) shall pay for an Independent Consultant (a licensed professional structural engineer), hired by the Town, to conduct inspections of the Tower's structural integrity and safety. Guyed towers shall be inspected every three years. Monopoles and non-guyed lattice towers shall be inspected every five years. A report of the inspection results shall be prepared by the independent Consultant and submitted to the Board of Selectmen, and the Town Clerk. Any Major Modification of Existing Facility that includes changes to Tower dimensions or antenna numbers or type, or removal of equipment, shall require new structural inspection.
- F. Unsafe Structure: Should the inspection of any Tower reveal any structural defect(s) which, in the opinion of the Independent Consultant render(s) that Tower unsafe, the following actions must be taken. Within ten (10) business days of notification of unsafe structure, the owner(s) of the Tower shall submit a plan to remediate the structural defect(s). This plan shall be initiated within ten (10) days of the submission of the remediation plan, and completed as soon as reasonably possible. Failure to accomplish this remediation of structural defect(s) within thirty (30) business days of initial notification shall be a violation of the CUP and subject to penalties as specified in the Schedule of Fees for Towers and Personal Wireless Facilities.

Removal Requirements

Any Personal Wireless and Telecommunications Service Facility that ceases to operate for a period of one (1) year shall be removed. Cease to Operate is defined as not performing the permitted functions associated with the Personal Wireless Service Facility and its equipment on a continuous and ongoing basis for a period of one (1) year. At the time of removal, the Facility Site shall be remediated such that all Personal Wireless Service Facility improvements, which have ceased to be utilized, are removed. If all Facilities on a Tower have ceased to operate, the Tower shall also be removed, and the Site shall be revegetated. Existing trees shall only be removed if necessary to complete the required removal. Applicant shall, as a condition of the CUP, provide a financial surety bond payable to the Town of Middletown Springs and acceptable to the Selectboard to cover the cost of removal or of height reduction of the Personal Wireless Service Facility and the remediation of the landscape, should the Facility cease to operate. If fifty percent (50%) of the equipment is removed from the tower (Applicant must report removal of equipment whenever it takes place), then the Selectboard may require that the height of the tower be reevaluated by an independent engineer, and that the height of the tower be altered downward if the report indicates that the original height is no longer required or justified. The cost of tower removal and site remediation, or of tower height reduction, shall be reevaluated every five (5) years. The bond shall be adjusted as necessary with sixty (60) days notice from the Town to the Tower owner. In the case of wooden Monopoles, height reduction is not considered to be possible.

Fees

A schedule of fees for Towers and Personal Wireless Service Facilities permitting and renewal, any Monitoring of emissions and inspection of structures, and any other fees shall be established by the Selectboard. This schedule may be amended from time to time.

Severability Clause

The invalidity of any section or provision of these Bylaws shall not invalidate any other section or provision hereof.

A Schedule of Fees for Towers and Personal Wireless and Telecommunications Facilities— Permitting and Renewal Fees and Penalty Fees for Non-Compliance

1. **Application Fee:** An initial application fee of one thousand dollars (\$1,000) shall be deposited with the Town of Middletown Springs along with the letter that designates three or more sites that the applicant wishes to consider.
2. **Escrow Account:** In addition, an escrow account shall be established with the Town of Middletown Springs to pay for those consultants to be hired by the Selectboard in its review of the application. Said funds shall be drawn upon monthly during the preliminary studies process and during the review of the complete proposal process and shall be replenished by the applicant when drawn down to fifty percent (50%) of its initial funding, or as otherwise directed by the Selectboard of Middletown Springs upon notification to the applicant in writing. The applicant shall be given a monthly accounting of all funds expended hereunder. Lack of funds to continue the review of the proposal by professional experts where needed will bring the application process to a halt. Lack of funds for a period of six (6) months will result in dismissal of the application due to the Town's inability to proceed. The applicant may begin the application process again after six (6) months from the date of the dismissal.
3. **Issuance of the CUP:** As a first condition of the issuance of the CUP, all expenses incurred by the Town shall be found to have been paid or reimbursed in full before the issuing of the permit. The Town of Middletown Springs may elect to establish an additional escrow account to cover on-going costs of monitoring, inspecting, and filing of reports as allowed elsewhere in these Bylaws or as written into the CUP and an ongoing condition of holding the CUP.
4. **Bond Removal of Tower or Reduction of Height:** As a second condition of the issuance of the CUP, the applicant shall provide a financial surety bond payable to the Town of Middletown Springs for the removal of the tower or for the reduction in height of the tower when the original height is no longer required. (Section X of the Interim Telecommunications Bylaws.)
5. **Penalties for Exceeding the FCC Recommended Emissions Standards:** (As in IX-D) Five thousand dollars (\$5,000) per day for the first sixty (60) days. Ten thousand dollars (\$10,000) per day for the next sixty (60) days or as long as needed. In addition, after sixty (60) days the tower owner will be responsible for expenses incurred by

residents who are required to move out of their houses for medical reasons, with the written recommendation of a doctor, due to the radiation levels exceeding the FCC recommended safety levels.

6. Unsafe Structure Penalty Fees: One hundred dollars (\$100) a day for the first sixty days. Five hundred dollars (\$500) a day for the remaining period of time. The owner of the tower or Monopole will be held responsible for damage or injuries caused by faulty tower structure.
7. PENALTIES FOR NON ADJUSTMENT OF BOND FOR TOWER REMOVAL: Five thousand dollars per month (\$5,000) for up to ten (10) months.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of December 16, 1997. No Board signatures are affixed.

- Name, Chair
- Name, Vice Chair and Clerk
- Name
- name
- name

Policy For Collection of Delinquent Taxes [2020]

As collector of Delinquent Taxes for the Town of Middletown Springs, I believe it is in the best interest of the Town, as well as its residents, that property taxes be paid when they are due, but I recognize that there are circumstances beyond the control of a taxpayer that may cause them to become delinquent. I will work with these delinquent taxpayers to help them come current in their obligation to the Town and will deal with them in a diplomatic and professional manner. However, should I encounter a taxpayer who fails or refuses to deal in good faith, or abide by the terms set forth, I will proceed with any and all collection methods appropriate to recover the debt in a timely manner.

1. An 8% penalty is charged on all delinquent taxes. In addition, interest on delinquent taxes accrues at the rate of 1% per month or any part of a month for the first three months and 1.5% per month or any part of a month following.
2. Within 15 days after the warrant for collection of delinquent taxes has been issued and at minimum each quarter thereafter until taxes are paid in full, a notice will be sent to each delinquent taxpayer indicating the amount of taxes, interest and penalty owed.
3. Partial payments will only be accepted in accordance with a written payment agreement. Said written payment agreement must be executed by the Delinquent Taxpayer and the Delinquent Tax Collector. Partial payments will be applied proportionally to the principal amount of the tax, interest and penalty.
4. If a payment agreement is not executed by the delinquent taxpayer, mortgage and lien holders may be notified of the delinquency 60 days after the first delinquency notice has been sent to the delinquent taxpayer.
5. If a payment agreement is not executed by the delinquent taxpayer, or if the terms of such a payment agreement are breached, the tax collector may initiate formal proceedings to collect the outstanding taxes, interest and penalty. Such proceedings may include tax sale, legal action to recover the debt, distraint of personal property, and/or foreclosure.
6. If a tax sale is held and the property is not purchased, or, if in the judgment of the delinquent tax collector, proceeding with a tax sale is inadvisable, the tax collector shall collect the delinquent taxes using any method permitted by law.

NOTICE: You may be entitled to an abatement of your delinquent property taxes under 24 V.S.A. § 1535. If you wish to schedule a meeting with the Board of Abatement, please contact the Town Office/Chair Board of Abatement at 10 Park Avenue, Middletown Springs, VT 05757 or 802-235-2220.

Debra A. House
Collector of Delinquent Taxes
Town of Middletown Springs, Vermont

Draft Delinquent Tax Payment Agreement [2020]

TOWN OF MIDDLETOWN SPRINGS DELINQUENT TAX PAYMENT AGREEMENT

Name: John W. Smith
Parcel Number: TH38-010-000
Total Delinquent Tax Amount : \$ 4,500.00

\$ 3,000.00	\$ 1,000.00	\$ 500.00
Principal	Interest	Penalty

The undersigned agrees to pay the delinquent taxes and accrued interest and penalties in accordance with the following schedule:

Payment of \$ \$375.00 per month until all the delinquent taxes, interest and penalties are paid in full within 24 Months from the date of the Agreement. Interest continues to accrue.

Current year fiscal year taxes MUST paid in a timely manner, and be current to enter into this installment agreement. Failure to keep current taxes paid will nullify this agreement.

It is understood that payments are first applied to interest, then pro-rated between principal and penalties. Interest charges continue to accrue until all taxes are paid in full. Additional payments are acceptable at any time. It is further understood that failure of the taxpayer to abide by the terms of this agreement in any way will nullify the agreement and the property may be sold at tax sale or may result in the Town initiating any other remedies allowed by law.

Payments must be made by the 30th of each month. If payment is not received on time each month, the agreement is void and we may proceed to tax sale.

DRAFT ONLY

Taxpayer Signature

Date:

Town of Middletown Springs, Delinquent Tax Collector:

Taxpayer Signature

Date:

Debra A. House

Please sign and Remit to:

Payments will all be remitted to:

Delinquent Tax Collector
Debra A. House
40 Meadow Brook Lane
Middletown Springs, VT 05757

Delinquent Tax Collector
P.O. Box 1022
Middletown Springs VT 05757

This policy was enacted by the Delinquent Tax Collector on December 1, 2020. The Select Board formally acknowledged the policy and accompanying sample payment agreement letter on December 29, 2020.

- Terry Redfield, Chair
- Carl Haynes, Vice Chair
- Patty Kenyon, Clerk
- Heather Grier
- Neil Russell

Policies Related to Facility Use

Policy for Library Use by Outside Groups [2002]

There is no charge for use of the Library by non-profit Middletown groups. However, we will appreciate users leaving the space clean and furniture in the normal Library arrangement.

Please obtain advance permission from the Librarian. If possible, she or a Library trustee will be present to open the Library.

If needed, some additional chairs are available from the basement. If furniture is moved, please return it to the normal library arrangement.

See thermostat in children's section for heat regulation.

For fire safety, unlock back door.

The "Event Tonight" sign may be hung beneath the outdoor Library sign and the flag may be put up outside.

Due to the narrow driveway, visitors must park in the rear of the building, or you may make your own arrangements for parking elsewhere. Please keep the driveway clear.

Upon closing, please review the following checklist:

- Lock back door
- Return thermostat to 55 . Turn off lights in children's section.
- Be sure the computer extension cord is unplugged from the outlet.
- Bring in flag (if used) and "Event Tonight" sign (if used). Bring in doormat (if used outside).
- Turn off lights.
- Lock door.

While there is no charge for use of the Library, an outside group using the Library will be asked to repair any damage that occurs during usage, or to reimburse the Library for repairs or cleaning expenses.

The Library is not available for commercial or for-profit use.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of September 26, 2002. No signatures are affixed.

- Name, Chair
- Name
- Name
- Name
- Name

Off-Hours Access to Town Office [2001]

For security reasons, the access to the Town Clerk's office shall be limited to official Town business during off hours.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of August 13, 2001. No signatures are affixed.

- Name, Chair
- Name
- Name
- name
- name

Highway Department Washroom Policy [2013]

Highway Department employees have access to the restroom and potable water facilities at the Firehouse. When using the facilities, the employees are to:

1. look both ways and cross the road safely; and
2. wear reflective vest provided by the Town.

This policy was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of September 12, 2013

- Chris Larson, Chair
- Carl Haynes
- James Webber
- Shirley Moyer
- Mike Lamson

Ordinances

Ordinance Requiring Variable Rate Pricing, also commonly known as “Pay As You Throw” or PAYT [2015]

WHEREAS, the Town of Middletown Springs, by virtue of the authority granted in 24 V.S.A. § 1971 (Title 24, Chapter 59, Section 1971), and 24V.S.A. § 2202a (a) (Title 24, Chapter 61, Subchapter 8, Section 2202a), the power to adopt, amend, repeal, and enforce ordinances, and to manage and regulate the solid waste disposal within its boundaries; and

WHEREAS, in accordance with 24 V.S.A. § 2202a (d) of Act 148, Vermont’s Universal Recycling law, which requires municipalities implement a variable rate pricing system by no later than July 1, 2015; the Town of Middletown Springs is implementing and requiring variable rate pricing charges for municipal solid waste (hereinafter “MSW”) collection from residential customers for disposal based on the volume or weight of the waste collected. This requirement to implement applies to all solid waste haulers and facilities that accept and collect MSW from residential customers; and

WHEREAS, Variable rate pricing systems have been shown to be one of the most effective mechanisms for decreasing the disposal of solid waste, increasing recycling and composting rates, and increasing the diversion and reuse of valuable materials from the solid waste stream. Further, a variable rate pricing is a more equitable pricing structure for solid waste. Charges are based on the number of units of solid waste a residential customer produces; and

NOW, THEREFORE, to encourage the responsible use of resources and the protection of the environment, the Selectboard of the Town of Middletown Springs hereby adopts this ordinance requiring variable rate pricing charges for Collection of MSW from residential customers in the Town of Middletown Springs, Vermont.

Article I - Purpose; Title

Purpose. This ordinance is enacted to encourage the responsible use of resources and the protection of the environment.

Title. This ordinance shall be known and may be cited as the “Ordinance Requiring Variable Rate Pricing also commonly known as Pay as You Throw (PAYT).”

Article II – Definitions

- a. “Collection” shall mean the gathering, pickup, acceptance, and allowance to drop off municipal solid waste by both solid waste haulers and solid waste facilities such as transfer stations where drop off of municipal solid waste is permitted;
- b. “Facility” shall mean any site or structure used for treating, storing, processing, recycling, transferring or disposal of municipal solid waste. A Facility may consist of a single or several treatment, storage, recycling, or disposal locations;
- c. “Hauler” shall mean any person that collects, transports, or delivers solid waste generated within a given area;

- d. "Municipal Solid Waste" hereinafter referred to as "MSW," means combined household, commercial, and industrial waste materials generated in a given area;
- e. "Variable Rate Pricing" means a fee structure that charges for MSW Collection based on its weight or volume.
- f. "Recycling Methodology" means the method of collection used by the Hauler, i.e., single stream/dual stream, type of containers, truck type, and processing facility.
- g. "Enforcement Agent" shall mean the SWAC designated administrative enforcement agent and/or the SWAC Executive Committee.

Article III - Variable Rate Pricing

Haulers and Facilities that provide Collection and/or drop-off disposal services for MSW to residential customers shall charge these customers for this service on the basis of the volume or weight of the MSW they produce, which is a pricing system commonly referred to as Variable Rate Pricing or Pay As You Throw.

Each Hauler or Facility shall establish a unit-based price to be charged for the Collection/drop-off disposal of each unit of MSW from residential customers; for example, a price per pound or a price for each 30- gallon bag or 30-gallon container that is collected or disposed of by a resident. Each larger unit of MSW, such as a 64-gallon container or a 50-gallon bag, shall carry an increased price.

The provisions of this subsection shall not be construed to prohibit any Hauler or Facility from establishing rules and regulations regarding the safe maximum weight of bags or containers of MSW materials. A Hauler or Facility may refuse to collect or allow disposal of any bag or container which is overloaded or which contains MSW greater than the rated or specified volume or weight of such bag or container, or shall account for and bill the customer for the Collection of such excess MSW.

Article IV - Flat Fee

In addition to the unit-based price charged per unit of MSW, Haulers and Facilities may, but are not required to, charge a flat fee to residential customers for the purpose of covering operational costs for collecting, transporting, and disposing of MSW.

In the event that a Hauler or Facility elects to establish a flat fee, all bills for services provided to residential customers shall clearly show both the flat fee and the unit-based price to maintain transparency.

Nothing herein shall prevent or prohibit a Hauler or Facility from charging additional fees for the Collection of materials such as food and yard residuals or bulky items; except however, that no Hauler or Facility may charge a separate line item fee on a bill to a residential customer for the Collection of mandated recyclables after July 1, 2015, in accordance with state statutes. A Hauler or Facility may incorporate the collection cost of

mandated recyclables into the collection cost of solid waste and may adjust the charge for the collection of solid waste.

Article V - Service Provider Pricing System and Certification

The Service Provider shall file and submit evidence of their variable rate pricing system and compliance with all applicable State laws to the Solid Waste Alliance Communities (SWAC). A form will be provided to the Service Provider by the Solid Waste Alliance Communities Administrator (www.rutlandcountyswac.org). Instructions for submittal can be found on the form. This certification must be submitted annually to meet the requirements of the Agency of Natural Resources.

Article VI - Penalties and Civil Enforcement

This ordinance is a civil ordinance and enforcement shall be brought in the judicial bureau in accordance with 24 V.S.A. §§ 1974a et seq.

The penalties for violating this ordinance are as follows:

Offense	Civil Penalty	Waiver Fee
First Offense	Written warning demanding variable rate pricing	
Second Offense	\$100	\$50
Third Offense	\$250	\$125
Fourth and Subsequent Offenses	\$500	\$300

Article VII: Designation of Enforcement Personnel

For the purposes of this ordinance, the Selectboard may designate any combination of the following persons as enforcement personnel; members of the Selectboard, the Town Health Officer, the Town Attorney, the Town Constable(s) and any official with law enforcement authority under Vermont law.

Article VIII: Repeal of Inconsistent Provisions

All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Article IX: Severability

This ordinance and its various parts, sentences, sections, and clauses are hereby declared to be severable. If any art, sentence, section or clause is found by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

Article X: Effective Date

This ordinance shall become effective 60 days after its adoption by the Board of Selectman unless a petition requesting voter approval is submitted within forty-five (45) days following adoption as provided in 24 V. S. A. § 1973.

This ordinance was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of June 25, 2015

- Terry Redfield, Chair
- Herb Childress, Clerk
- Mike Lamson
- Shirley Moyer

Animal Control Ordinance [2001]

An ordinance of the town of Middletown Springs relating to control of domestic pets, and wolf-hybrid breeds; providing definitions; owner responsibilities; duties of animal control officer; conditions for impoundment and release; cruelty; notification of officials; penalties; repeal; separability; amendments; providing an effective date.

Section 1. Purpose

It is the purpose of this ordinance to regulate the keeping of dogs, domestic pets, and wolf-hybrids; to protect public health and safety; and to protect the residents' quiet enjoyment of their homes and properties.

Section 2. Authority

Pursuant to 20 V.S.A. Chapters 191 and 193, Section 3549 and 24 V.S.A. Sections 2291 (10) and 1972 (a), the Selectboard of the Town of Middletown Springs, Vermont, hereby adopt the following ordinance to regulate the control of domestic pets, and wolf-hybrids within, the Town of Middletown Springs. This ordinance is designated as a civil ordinance pursuant to 24 V.S.A. Section 1974 (b).

Section 3. Definitions

- (A) For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. The word "shall" is always mandatory and not merely directory.
- (B) Animal Control Officer shall mean any constable of the Town of Middletown Springs or any person(s) duly appointed by the Selectboard for enforcement of this ordinance.
- (C) At Large shall mean to move at will without restraint, control or limitation to property lines or owner by leash and /or vocal control. Included are all properties public and private other than that of the owner. A dog or dogs engaged in the act of animal herding under the control and direction of an owner or keeper is not considered to be at large.
- (D) Domestic Pet shall mean any domestic dogs, domestic/barn/stray cats and domestic ferrets. Wolf-hybrids are not considered to be domestic pets, but are licensed and regulated as domestic pets.
- (E) Owner or Keeper shall mean any person who owns a domestic pet or wolf-hybrid and includes any person who has actual or constructive possession of the pet or wolf-hybrid. The term also includes those persons who provide feed or shelter to a domestic pet or wolf-hybrid.
- (F) Physical or Vocal Control shall mean when the dog or wolf-hybrid is not on the owner's or keeper's property that such animal is on a leash or harness, is on or in a vehicle or travel cage, is under the supervised verbal command of the owner or

keeper.

(G) Pound shall mean the place designated by the Select board of the Town of Middletown Springs to keep domestic pets found by an enforcement officer or citizen to be in violation of any provision of this or referenced state ordinances/statutes.

(H) Under Restraint shall mean:

- 1) on a leash not longer than eight (8) feet, or;
- 2) within a vehicle or travel cage, or,
- 3) on the property of its owner or keeper, or
- 4) animal herding

(I) Vaccination Against Rabies shall mean a vaccine approved by the Vermont Commissioner of the Department of Agriculture, Food and Markets and administered by a licensed veterinarian. Until the Commissioner approves a rabies vaccine for use of wolf-hybrids, these animals shall be vaccinated with a vaccine approved by the Commissioner for domestic dogs.

(J) Vicious Domestic Animal or Wolf-hybrid shall mean an animal, which causes reasonable fear of bodily injury by attacking or threatening to attack any person or domestic animal, except in such case as a person or animal may be in the act of unlawfully trespassing upon the property of the owner or keeper of the subject animal.

(K) Wolf-hybrid shall mean any animal, which is the progeny or descendant of the mating of a domestic dog and a wolf. Wolf-hybrid also means an animal, which is advertised, registered, licensed, or otherwise described or represented as a wolf-hybrid by its owner.

Section 4. Responsibilities of the Owner

1. **Licensing.** It shall be the duty of every person owning, keeping or harboring any dog or wolf-hybrid more than six months of age within the Town of Middletown Springs to annually on or before April 1 cause it to be registered with the Town Clerk in accordance with Title 20. Sections 3581-3592 of the Vermont Statutes Annotated, as amended. The owner or keeper will affix a license tag, provided by the town to a collar, which the owner or keeper will cause the dog to wear.
2. **Vaccination.** Domestic pets must be inoculated with a vaccine approved by the commissioner of Agriculture, Food and Markets. Vaccines providing three-year immunity for boosters must be used for dogs and cats. Two one-year vaccines are available for ferrets. Wolf-hybrids must be inoculated with rabies vaccines approved for dogs in the same manner as labeled for dogs.
3. **Under Restraint.** It is the responsibility of the owner to keep any dog or wolf- hybrid leashed or under restraint regardless of age when on any public property or private lands other than that of the owner.
4. **Dogs or Wolf-hybrids at Large.** No owner shall permit a dog or wolf-hybrid to run at

large in a street, road, park or common, nor shall the owner allow his/her dog or wolf-hybrid to run at large on other peoples property, namely lawns, gardens, yards, school grounds, parking areas, or other land used or occupied by other person(s) without the permission of the owner of the land.

5. **Disturbing of Quietude as Public Nuisance.** It shall be unlawful for any owner to permit or allow his/her dog or wolf-hybrid to habitually howl, bark, or in any way disturb the peace and quietude of the community. Such conduct is hereby declared to be a public nuisance.
6. **Nuisance Dog or Wolf-hybrid.** It shall be unlawful for any owner to keep a nuisance dog or wolf-hybrid as herein defined. Dogs and or wolf-hybrids running at large or nuisance dogs or wolf-hybrids may be taken by the Animal Control Officer and impounded in a humane manner. For the purposes of this section, nuisance dog and/or wolf-hybrid means any dog/wolf-hybrid which:
 - a) molests passers-by or passing vehicles,
 - b) attacks other animals,
 - c) trespasses on school grounds,
 - d) is repeatedly at large,
 - e) damages private or public property,
 - f) is unlicensed.
7. **Vicious Dog or Wolf-hybrid.** The owner shall confine within a building or secure enclosure every fierce, dangerous or vicious dog and/or wolf-hybrid, and not take such animal out of such building or enclosure unless such dog is securely muzzled and leashed.
8. **Unsprayed Females in Heat.** The owner shall confine within a building or secure enclosure every unsprayed female dog or wolf-hybrid in heat in such manner that such animal cannot come in contact with another dog and/or wolf-hybrid except for intentional breeding.
9. **Boarding Costs and Penalties.** It is the owner's responsibility to pay all veterinary fees and penalties for violating this ordinance. Such veterinary fees shall include shots, vaccines, boarding and public advertising fees. The penalties, as from time to time, established by the Select board, shall compensate the Town of Middletown Springs for enforcement costs.
10. **Animals in Public Buildings.** Owners of domestic pets or wolf-hybrids shall not allow such animals to enter public buildings i.e. school, town offices, municipal buildings, etc. (exception: guide dog for the blind.)

Section 5. List of Dogs and Wolf-hybrids not Licensed

1. In April of each year, the Select board shall cause to be conducted an annual census of unlicensed, inoculated and licensed dogs and wolf-hybrids which shall then be submitted to the Town Clerk.
2. By May 1, the Town Clerk shall notify the owners or keepers of all dogs and wolf-

hybrids named in the list that have not already been licensed or inoculated that after May 30 the Select board may issue a warrant for impoundment and/or destruction of such animals.

Section 6. Duties of the Animal Control Officer

1. It is the responsibility of the Animal Control Officer to attempt to capture any dog or wolf-hybrid running at large and to transport such animal to the pound.
2. Immediately after capture, the Animal Control Officer shall check the animal for proper identification. The capture should be recorded on the dog identification form. The time, place, description of the dog and a brief explanation of the circumstances should be logged at the time of capture.
3. After transport to the pound the Animal Control Officer shall make every reasonable attempt to identify and notify the owner of any such dog or wolf-hybrid impounded with the procedures for retrieving such animal. The owner will be responsible for all costs relating to the impounding of such animal.
4. It is the primary responsibility of the Animal Control Officer to attempt to transport any dog or wolf-hybrid, which is running at large, to the pound and to make a reasonable attempt to identify the owner. The Animal Control Officer shall notify the selectboard of all violations of this ordinance. The animal control officer, or other authorized by the selectboard shall issue a citation and fine in accordance with Section 12, Penalties.

Section 7. Investigation of Vicious Domestic Pets or Wolf-Hybrids

1. When a domestic pet or wolf-hybrid has bitten a person while the domestic pet or wolf-hybrid is off the premise of the owner or keeper, or if anyone who has personal first hand knowledge that a domestic pet or wolf-hybrid is a menace to travel, is vicious, or has bitten someone while off the premise of the owner or keeper, such person may file a written complaint with the legislative body of the Town of Middletown Springs. The complaint shall contain the time, date and place where the attack or incident occurred, the name and address of the victim or victims, and any
2. other facts that may assist the legislative body in conducting its investigation required by subsection (2) of this section.
3. The legislative body, within seven days from receipt of the complaint, shall investigate the charges and hold a hearing on the matter. If the owner of the domestic pet or wolf-hybrid, which is the subject of the complaint, can be ascertained with due diligence, said owner shall be provided with a written notice of the time, date and place of hearing and the fact's of the complaint.
4. If the domestic pet or wolf-hybrid is found to have bitten the victim without provocation, or is found to be a vicious domestic animal or wolf-hybrid as defined in Section 3 (J) of this Ordinance, the municipal officials shall make such order for the protection of persons as the facts and circumstances of the case may require, including, without limitation, that the domestic pet or wolf-hybrid is disposed of in a humane way, muzzled, chained, or confined. The order shall be sent by certified mail, return receipt

requested. A person who, after receiving notice, fails to comply with the terms of the order shall be subject to the civil penalties provided in Section 12 of this Ordinance.

5. The procedures provided in this section shall only apply if the domestic pet or wolf-hybrid is not a rabies suspect. If a member of the legislative body or a municipal official designated by the legislative body determines that the animal is a rabies suspect, the provisions of 20 V.S. A. Subchapter 5 and the rules of the Department of Health shall apply. (Appendix A)

Section 8. Impoundment and Condition of Release

1. If the owner of keeper does not claim the dog or wolf-hybrid within seven (7) days, such animal may become the property of the pound. The impounded animal may be given to whoever pays the penalties, rabies shots, and necessary licensing fees, or it may be humanely euthanized.
2. The pound should keep a record of every dog or wolf-hybrid disposed of by sale or otherwise. Such records should include:
 - a. a description which identifies the animal with reasonable certainty
 - b. the manner of disposing of the animal, and
 - c. if the dog was transferred to another person, the name and address of the transferee. In addition the transferee should sign a statement giving his name, address and date of delivery or receipt of dog.
3. No dog or wolf-hybrid should be released from the pound until it is properly licensed and all pound charges, and penalty fees, are paid. The pound should require a receipt from the Town Clerk for the license (if applicable) and penalties.

Section 9. Cruelty

Any person who tortures, torments, or cruelly neglects to provide with necessary sustenance or shelter or who cruelly beats or needlessly mutilates or kills or causes or procures to be tortured, tormented, or deprived of necessary sustenance or shelter or needlessly mutilates or killed, any animal, should be promptly reported to the Humane Society.

Section 10. Notification of Officials

To enforce this ordinance, any person finding any domestic pet upon his property to his injury or annoyance should as soon as possible notify the Animal Control Officer, or selectboard.

Section 11. Enforcement

1. The Constable and/or Animal Control Officer of the Town shall be the chief enforcement officers of this ordinance.

2. All enforcement officers may use any reasonable means necessary to apprehend a domestic pet in violation of this ordinance for impoundment at a pound designated by the municipality.
3. Nothing in this ordinance shall be construed as preventing any person from killing a rabid animal which attacks a person or domestic pet, and a person so killing such rabid or suspected rabid animal shall not be held liable for damages for such killing as specified in 20 V.S.A. Section 3809.
4. Citations will be handled by the Vermont Judicial Bureau.

Section 12. Penalties

1. As per 24V.S.A. 1974 (B) This ordinance is designated as a civil ordinance. Any person found to have violated any section of this ordinance in cases which involve licensed animals shall be:
 - a. Notified by written warning for the first offense
 - b. Fined \$25.00 for the second offense
 - c. Fined \$50.00 for the third offense
 - d. Fined \$100.00 for every offense thereafter.

The above fines are in addition to the expenses of impounding, if any, and all other lawful charges. Waiver fines shall be one half the specified fine in lieu of court appearance.

2. Any person found to have violated any section of this ordinance in cases which involve unlicensed domestic pets shall be :
 - a. Notified by written warning for the first offense
 - b. Fined \$50.00 for the second offense
 - c. Fined \$100.00 for the third offense
 - d. Fined \$150.00 for every offense thereafter.
3. The above fines are in addition to the expenses of impounding, if any, and other lawful charges. Waiver fees shall be one half the specified fine in lieu of court appearance.
4. All fines shall be paid prior to release of the animal from the pound, should impoundment be necessary.

Section 13. Other Laws

This ordinance is in addition to all other Ordinances of the Town of Middletown Springs and all applicable laws of the State of Vermont.

Section 14. Separability

The provisions of this ordinance are hereby declared to be separable and if any there be adjudged invalid, the invalidity of any part shall not affect the remainder thereof.

Section 15. Amendments

This ordinance may be amended by a majority vote of the Select board at any duly constituted meeting in accordance with V.S.A. 24 Section 1972.

Section 16. Publication and Posting

This ordinance shall be posted in five conspicuous places in town, published in the local newspaper on date 2001 and shall be filed with the Middletown Springs Town Clerk on date, 2001.

Adopted by the Selectboard, Town of Middletown Springs, at its meeting held on July 1, 2001.

This ordinance shall become effective the 7th day of September, 2001.

This ordinance was created in response to a Town vote on May 9, 2000, requesting the Selectboard to enact such an ordinance. The vote passed 151-55 in favor of the ordinance.

This ordinance was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of July 16, 2001.

- Francis Haley, Chair
- Henry Gerberding
- Shirley Moyer
- William Reed
- John Colvin

Local Enforcement of Speed Limit on State and Town Highways [2004]

ARTICLE 1: Authority

This ordinance is adopted by the Town of Middletown Springs under authority granted by 24 V.S.A. Chapter 59; 23 V.S.A. Section 1007; and 13 V.S.A. Section 7251.

ARTICLE 2: Purpose

The purpose of this ordinance is to promote public safety.

ARTICLE 3: Severability

If any portion of this ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

ARTICLE 4: Speed Regulations

North Street – The maximum speed limit permitted for any vehicular traffic on North Street within the Town of Middletown Springs shall be 30 mph from the intersection of Vt. Route 133 and North Street to the end of the pavement in a northern direction .6 miles north of the intersection of Vt. Route 133 and North Street, then a maximum speed of 35 mph from .60 miles from the intersection of Vt. Route 133 and North Street in a northern direction to the Town of Middletown Springs town line.

East Street - The maximum speed limit permitted for any vehicular traffic on East Street within the Town of Middletown Springs shall be 35 mph from the intersection of Vt. Route 133 and Vt. Route 140 in a easterly direction extending .30 miles, then a maximum speed of 40 mph from .30 miles from the intersection of Vt. Route 133 and Vt. Route 140 in an easterly direction to .40 miles from the intersection of Vt. Route 133 and Vt. Route 140, then a maximum speed of 50 mph from .40 miles from the intersection of Vt. Route 133 and Vt. Route 140 in a easterly direction to the Town of Middletown Springs town line.

South Street - The maximum speed limit permitted for any vehicular traffic on South Street within the Town of Middletown Springs shall be 35 mph from the intersection of Vt. Route 133 and Vt. Route 140 in a southern direction extending .70 miles, then a maximum speed of 40 mph from .70 miles from the intersection of Vt. Route 133 and Vt. Route 140 in a southern direction to .90 miles from the intersection of Vt. Route 133 and Vt. Route 140, then a maximum speed of 50 mph from .90 miles from the intersection of Vt. Route 133 and Vt. Route 140 in a southern direction to the Town of Middletown Springs town line.

West Street - The maximum speed limit permitted for any vehicular traffic on West Street within the Town of Middletown Springs shall be 35 mph from the intersection of Vt. Route 133 and Vt. Route 140 in a westerly direction extending .40 miles, then a maximum speed of 40 mph from .40 miles from the intersection of Vt. Route 133 and Vt. Route 140 in a westerly direction to 1.6 miles from the intersection of Vt. Route 133 and Vt. Route 140, then a maximum speed of 50 mph from 1.6 miles from the intersection of Vt. Route 133 and Vt. Route 140 in a westerly direction to the Town of Middletown Springs town line.

All Other Town Roads - The maximum speed limit permitted for any vehicular traffic on all other town roads not described above shall be 35 mph.

ARTICLE 5: Penalties

- a. This is a civil ordinance which shall be enforced in accordance with the provisions in 24 V.S.A. - 1974a and 1977 et. Seq.
- b. The penalty for violation of any of the above speed limits shall be that set by the Schedule of Fines by the State of Vermont.

ARTICLE 6. Enforcement Officials

Issuing officials shall include any officer from the Rutland County Sheriffs Department, Vermont State Police, any certified Middletown Springs constable or special officer.

ARTICLE 7. Effective Date

This ordinance shall become effective 60 days after its adoption by the Middletown Springs Selectboard. If a petition is filed under 24 V.S.A. Section 1973, the taking effect of this ordinance shall be governed by that statute.

ARTICLE 8. Amendments

This ordinance may be amended by a majority vote of the Selectboard at any duly constituted meeting in accordance with 24 V.S.A. section 1972.

This ordinance was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of December 28, 2004

- Fred Bradley, Chair
- Patricia McWilliams
- Raymond Lamberton
- William Reed

Position Descriptions

Duties and responsibilities of the Road Commissioner [2009]

The Road Commissioner is an elected position; however, the Select Board holds ultimate responsibility for the town roads and oversight of the highway budget. The purpose of this document is to outline the shared and delegated responsibilities for maintenance and improvement of town roads.

The Road Commissioner will:

- 1) Develop and gain Select Board approval for a prioritized list of road projects and estimated costs for each project. The list will be updated annually.
- 2) Advise and assist the Select Board in the development of the annual highway budget.
- 3) Closely monitor and supervise expenditures to stay within the approved highway budget.
- 4) Work closely with and supervise the Road Forman in an administrative capacity
- 5) Administrate designated highway projects approved by the Select Board keeping the Board apprised of progress and difficulties. Administration will include but not be limited to; working with Dig Safe, CVPS, telephone companies, Rutland Regional Planning Commission, VTrans, or other entities involved with a highway project, hiring contract labor, contracting for materials, and ensuring that projects are completed in a cost effective, safe, and timely manner.
- 6) Keep a log of all work performed, which will be summarized in a report to the Select Board at its regular meetings, as well as updating the Board on other issues such as condition of town equipment, workplace injuries, or public concerns.
- 7) Be responsible for supplying the Select Board with information about available grants and other sources of funding. The Road Commissioner will oversee completion of grant applications and the follow-up.
- 8) Approve permits for work to be done in the town right-of-way, including driveway cuts and power and phone line burial.
- 9) Maintain public relations duties as needed including communication with landowners regarding significant road work such as tree removal or altering drainage patterns.
- 10) Obtain prices, bids, estimates, etc. when needed to submit to the Select Board for decisions on purchasing road equipment or contracts.
- 11) Conduct and/or update the municipal Road Survey in conjunction with Rutland Regional Planning Commission.
- 12) Ensure that roads are posted regarding hazardous conditions, weight limits, etc. as necessary to protect public safety and avoid damage to roads and bridges.
- 13) Maintain accurate records related to the Town Highway Department.
- 14) Have a working knowledge of Town, State, and Federal ordinances, statutes, or regulations, or have the resources to find such information. In addition the Road Commissioner will attend periodic training sessions in order to update skills and knowledge.
- 15) Be compensated at a rate of pay established by the Select Board for duties performed.

- 16) The Select Board may add to, rescind, or alter those duties delegated to the Road Commissioner at any time.

The Select Board reserves for itself the following responsibilities:

- A) Approving highway expenditures
- B) The power to lay out, alter, classify, and discontinue Town Highways
- C) All other duties and responsibilities delegated in Vermont Statute 19 V.S.A. §304.

This position description was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of February 12, 2009.

- Fred Bradley, Chair
- Robin Chesnut-Tangerman, Vice Chair
- David Munyak, Clerk
- Matthew Haley
- Bill Reed

Duties and Responsibilities of the Road Foreman [2009]

The position of Road Foreman is a hired position which is under the ultimate authority of and reporting to the Select Board.

This is a “Working Foreman” position which will require the individual in this position to work with any other Highway Department employees as well as employees from other departments in the town.

Duties and Responsibilities

The Road Foreman will:

- 1) Plan, coordinate and supervise the day to day operations of the Highway Department.
- 2) Possess the ability to operate all pieces of town equipment.
- 3) Manage operations of the department and respond to public concerns in a consistent and professional manner.
- 4) Review and validate employee hours recorded for completeness and accuracy. Review all records of purchases and expenditures and apply the appropriate accounting prior to submitting to the Select Board for approval.
- 5) Supervise Highway Department personnel to ensure quality workmanship and provide a positive working environment in an effort to foster high employee morale.
- 6) Ensure that all safety equipment is used and procedures are followed and provide employees with appropriate levels of training to perform the day to day requirements of the job.
- 7) Handle all personnel issues within the Highway Department. Document and update the Select Board on all occurrences.
- 8) Perform at a minimum, an annual review for all other Highway Department employees and file signed copies with employee records.
- 9) Carry out a regular maintenance schedule for routine and preventative maintenance of town equipment and maintain appropriate records.
- 10) Recommend, communicate and coordinate with the Road Commissioner and Select Board on:
 - a. Prioritizing budgeted projects
 - b. Identifying problems
 - c. Bidding on purchase of supplies or contracted services
 - d. Making recommendations related to the hiring and firing of employees
 - e. Preparation of annual budgets
 - f. Assist in the review of plans, cost estimates and specifications for major projects, planned and unplanned.
- 11) Be responsible for monitoring weather conditions affecting roads and highways and make provisions for any extra maintenance required including 24 hour coverage for emergency situations.
- 12) Be responsible for hiring/contracting additional temporary employees to cover during time out of town, vacations and extended hours situations. A call list should be maintained with a list of available resources.

- 13) Use the town's Road Surface Management System as an aid to prioritize highway projects.
- 14) Have working knowledge of and access to State and Federal ordinances, statutes or regulations which apply to Highway Department work.
- 15) Attend training and informational meetings to update knowledge and skills. Stay abreast of new technologies, techniques, and trends.
- 16) Act as Liaison between the Transfer Station and the Highway Department regarding use of equipment and handling materials.
- 17) Post roads as directed by the Road Commissioner or Select Board.
- 18) Be responsible for contacting Dig Safe, CVPS, telephone companies, and other agencies as necessary when services may be affected by routine road work.

Experience/Training

- High school education or equivalent.
- Five years experience with heavy equipment operations, road construction and road maintenance preferred.
- Experience or working knowledge of paving and paving materials and practices, bridge maintenance, drainage, culvert construction and general equipment maintenance.

Important Skills/Requirements

- Ability to read blueprints, surveys, and job specifications.
- Ability to carry out complex oral and written instructions.
- Advanced mechanical skills a plus.
- Ability to work with and effectively supervise employees.
- CDL with endorsements and clean driving record for state and insurance purposes.
- Ability to exercise good judgment when carrying out duties and to maintain good working relationships with public, employees and town officials.
- Ability to perform physical tasks in all weather conditions.
- Final offer of employment subject to passing a physical.
- Pass an initial drug test and be subject to random drug tests thereafter.

Terms of Employment

- This position is filled by the Select Board after interviews and reference checks. Terms of employment, compensation and benefits to be set by the Select Board.
- A six month probationary period is a condition of employment; after six months a written evaluation will be given and continued employment will be based on a satisfactory review.
- Annual performance reviews will be conducted and signed off on by all parties upon agreement

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This position description was adopted by the following members of the Select Board of the Town of Middletown Springs, Vermont at its meeting of November 12, 2009.

- Fred Bradley, Chair
- Carl Haynes
- Chris Larson
- Shirley Moyer
- David Munyak