



# POLICY MANUAL

Town of Leicester, Massachusetts

This manual shall serve as a comprehensive guidebook of all town policies that pertain to the general operation of Town departments.

ADOPTED: April 2014

UPDATED: October 2019

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## **1.0 INTRODUCTION**

This manual shall serve as a comprehensive guidebook of all town policies that pertain to the general operation of Town departments. Individual departments may have their own policies and codes of conduct. This manual is intended to be a go-to source for guidance and instruction. Should there be any conflicts with the policies within the manual, please consult the Office of the Town Administrator.

This policy manual was first assembled in 2014 incorporating existing policies of the Town. As new policies are adopted, they will be included into the manual as soon as possible. Prior to adoption of policies into this manual, all standalone policies of the Town remain in effect. Updated copies of this manual will always be available in the Office of the Town Administrator.

These policies have been adopted under by and under the authority of the Select Board unless otherwise noted.

## **2.0 SELECT BOARD**

### **2.1 PURPOSE**

The Select Board of the Town of Leicester, recognizing the need to codify the traditional and accepted working relationships among the members of the Board, between the Board and the Town Administrator, and between the Board and other Town boards, committees, officials and citizens, and also recognizing the need to systemize and reduce to writing the Town's public policies and procedures, hereby undertake to create operating procedures of the Select Board.

These policies and procedures shall contain items relating to topics that cannot be addressed elsewhere. Subjects that would more appropriately be addressed in a statute, by-law or regulation shall not be addressed in this format.

### **2.2 PROCEDURE FOR ESTABLISHING POLICIES and PROCEDURES**

Draft policies and procedures shall be placed on the agenda for any regularly scheduled meeting of the Board. Drafts shall be in writing and may be introduced only by a member of the Board or the Town Administrator. Upon receipt of a draft, the Board may choose to discuss the policy immediately or schedule the discussion for a future meeting. The Board may schedule any hearings or meetings it deems necessary for discussion. The Board may distribute a draft for comment to appropriate officials as it deems necessary.

The Board shall not vote on a policy at the same meeting that it is first introduced. This rule may be waived if the Board unanimously votes that prompt action is necessary. Four votes of a five-member board are necessary for adoption.

The Town Administrator shall be responsible for the maintenance of all policies and procedures.

## **2.3 GOALS AND OBJECTIVES**

The goals are numerous and varied. In consideration of same the Board will review the Town's Master Plan, Open Space and Recreation Plan, and like documents.

## **2.4 AUTHORITY**

The Select Board is an elected Board and derives its authority and responsibilities from the statutes of the Commonwealth of Massachusetts and the By-Laws of the Town of Leicester.

## **2.5 ELECTION and QUALIFICATION**

In accordance with the Town Meeting vote of April 29, 1958, the Board shall consist of five duly elected members. Before assuming official duties, each newly elected member shall be sworn to faithful performance of official responsibilities by the Town Clerk.

## **2.6 VACANCIES ON THE BOARD**

When a vacancy occurs in the membership of the Select Board, the Board or its remaining members may call a special town election to fill the unexpired term or terms in accordance with the Massachusetts General Laws.

## **2.7 ROLE OF THE SELECT BOARD**

The Board is responsible for policy development and review for compliance. The Board works with the Town Administrator on policy formulation.

The Board is responsible for supervising the departments of the general government that are not supervised by the other elected officials. This responsibility is delegated to the Town Administrator and the Board will refrain from involvement in day to day operations. Concerns and questions about the operation of departments and suggestions for improvements should be addressed to the Town Administrator. The responsibility for addressing these issues is thus carried out through the Town Administrator. Selectmen may be called upon to resolve disputes that are unable to be resolved on the staff level. The Selectmen may follow-up on concerns or issues addressing these approved policies.

## **2.8 ROLE OF THE TOWN ADMINISTRATOR**

The Board appoints a Town Administrator who functions as the Town's Chief Administrative Officer. The primary duties of the Town Administrator shall be the day-to-day administration of the general government as outlined in the position's job description. The Town Administrator shall also assist and work under the direction of the Selectmen in the formulation of policy.

The Town Administrator must maintain a close working relationship with all members of the Board. He/she shall regularly brief the Board on all important issues.

In order to provide the Town with continuity of management and the Town Administrator with job security, the Selectmen are committed to maintaining an employment agreement with the Town Administrator, as permitted by statute.

## 2.9 BOARD ETHICS

1. A member of the Select Board, in relation to his or her community should:
  - A. Realize that his or her basic function is to make policy, with administration delegated to the Town Administrator.
  - B. Realize that he or she is one of a team and should abide by, and carry out, all Board decisions once they are made.
  - C. Be well informed concerning the duties of a Board member on both local and state levels.
  - D. Remember that he or she represents the entire community at all times.
  - E. Accept the Office of Selectman as a means of unselfish service, not benefit personally or politically from his or her Board, or outside activities.
  - F. Avoid political patronage in all appointments by judging all candidates on merit, experience, and qualifications only.
  - G. Abide by the ethics established by the State and not use the position to obtain inside information on matters which may benefit someone personally.
2. A member of the Select Board, in his or her relations with administrative officers of the Town, should:
  - A. Endeavor to establish sound, clearly defined policies that will direct and support the administration for the benefit of the people of the community.
  - B. Recognize and support the administrative chain of command and refuse to act on complaints as an individual outside the administration.
  - C. Give the Town Administrator full responsibility for discharging his or her disposition and solution.
3. A member of the Select Board, in his or her relations with fellow Board members, should:
  - A. Recognize that action at official legal meetings is binding and that he or she alone cannot bind the Board outside of such meetings.
  - B. Not make statements or promises of how he or she will vote on matters that will come before the Board until he or she has had an opportunity to hear the pros and cons of the issue during a Board meeting.
  - C. Uphold the intent of executive session and respect the privileged communications that exists in executive session.
  - D. Make decisions only after all facts on an issue have been presented and discussed.
  - E. Treat the rights of all members of the Board with respect, despite differences of opinion.

## **2.10 ORGANIZATION OF THE BOARD and RESPONSIBILITIES**

The Chairman shall be elected annually at the first regular meeting following the Annual Town Election, unless postponed by a unanimous vote of the Board. A majority vote shall constitute an election. Nominations require no second. The Board shall further appoint a Vice-Chairman and a Second Vice-Chairman under the same provisions stated for the Chairman. Any of the aforementioned officers may be removed by a 4/5 vote of the Board.

The first regular meeting following Annual Town Election shall convene with the immediate past Chairman presiding as Chairman Pro-Tem until the Chairman is elected. If there is no immediate past Chairman, the immediate past Vice-Chairman shall serve as Chairman Pro-Tem. In the absence of an immediate past Chairman and Vice-Chairman, the immediate past Second Vice-Chairman shall serve.

### **RESPONSIBILITIES OF THE CHAIRMAN**

The Chairman of the Board shall:

1. Preside at all meetings of the Board. In doing so, he/she shall maintain order in the meeting room, recognize speakers, call for votes and preside over the discussion of agenda items.
2. Sign official documents that require the signature of the Chairman.
3. Call special meetings in accordance with the Open Meeting Law.
4. Prepare agenda with the Town Administrator
5. Arrange orientation for new members.
6. Represent the Board at meetings, conferences and other gatherings unless otherwise determined by the Board or delegated by the Chairman.
7. Serve as spokesman of the Board at Town Meetings and present the Board's position unless otherwise determined by the Board or delegated by the Chairman.
8. Make liaison assignments and assign overview responsibilities for projects and tasks to Board members, unless otherwise determined by the Board.

The Chairman shall have the same rights as other members to discuss questions and to vote thereon. In the absence of other offerings, he/she may introduce motions, seconds to motions and resolutions.

### **RESPONSIBILITIES OF THE VICE-CHAIRMAN**

The Vice-Chairman of the Board shall act in place of the Chairman during his/her absence at meetings. Should the Chairman leave office, the Vice-Chairman shall assume the duties of Chairman until the Board elects a new Chairman.

## **RESPONSIBILITIES OF THE SECOND VICE-CHAIRMAN**

The Second Vice-Chairman of the Board shall act in place of the Vice-Chairman during his/her absence at meetings. Should the Vice-Chairman leave office, the Second Vice-Chairman shall assume the duties of Vice-Chairman until the Board elects a new Vice-Chairman.

## **RESPONSIBILITIES OF ALL BOARD MEMBERS**

The Select Board is responsible to sign Payroll and Expense Warrants at least once per week prior to noon on Thursdays. The Board members are responsible to pick up their meeting packets and be prepared for discussion of the items on the agenda.

### **2.11 BOARD MEETINGS**

#### **REGULAR BOARD MEETINGS**

Regular Board Meetings are held on the 1st and 3rd Monday of each month beginning at 6:30pm. This schedule will be re-voted each year during reorganization period. The Board shall not meet on days designated as legal holidays, but will attempt to reschedule for the next evening, or move it to the following Monday.

#### **EMERGENCY MEETINGS**

Emergency meetings may be convened when a sudden, generally unexpected occurrence or set of circumstances demanding immediate action takes place. The Chairman shall have the authority to call emergency meetings of the Board.

#### **SPECIAL BOARD MEETINGS**

A meeting called for any time other than the regular meetings shall be known as a “Special Meeting”. The same rules as those established for regular meetings will apply. Special meetings may be called provided that a majority of the members agree to meet and all Board members are notified.

#### **WORKING MEETINGS**

The Board may conduct informal “working sessions” from time to time as the situation warrants. At such meetings, which will be posted in accordance with the Open Meeting Law, no official action will be taken. A synopsis of transactions of informal meetings will be made a part of the minutes of the following regular meeting.

#### **MEETING PROCEDURES**

Meetings are to be conducted in accordance with generally accepted rules of parliamentary procedure and the Open Meeting Law. It is the practice that application of such procedure be on a relatively informal basis, due to the size of the group and the desirability of flexibility in the expression of opinion. Robert’s Rule of Order may be used as a guide in matters requiring clarification of definition.

A quorum shall consist of three members of the Board. As a practical courtesy, action on critical or controversial matters, the adoption of policy or appointments, shall be taken, whenever practicable, with the full Board in attendance. Actions and decisions shall be by motion, second and vote. Split votes will be identified by name of member.

The Town Administrator is expected to be in attendance at all meetings of the Board. The Town Administrator shall attend in order to keep the Board informed and advised and recommend in all matters that fall within the jurisdiction of his office. He/she shall carry out the actions of the Board as they relate to the conduct and administration of Town affairs under his/her jurisdiction.

### **EXECUTIVE SESSION**

If practicable, Executive Sessions, other than those of a few minutes in duration, will be scheduled only at the end of or the beginning of the open meeting. Only items clearly allowed under the Open Meeting Law shall be included in Executive Session. The member making a Motion to enter into Executive Session must specify under which Mass General Law the session is sought. A majority of the members present must vote to enter into Executive Session by roll call vote. The Chairman must state whether or not the Board will reconvene into open session, and whether any public announcements are anticipated.

### **AGENDA PROCEDURES**

The responsibility for coordinating and planning the weekly agenda is that of the Town Administrator. Each of the Board members and the Town Administrator may place items on the agenda as determined by the Chairman in consort with the Town Administrator and/or Administrative Assistant. The Town Administrator shall schedule a realistic time period for each appointment, interview, conference or other scheduled items of business.

All items for the agenda must be submitted to the Town Administrator by 12:00 PM on the second business day preceding the scheduled meeting.

Agenda items normally include:

1. Call the meeting to Order
2. Pledge of Allegiance, Moment of Silence
3. Citizen Comment Period
4. Action Items, Appointments for guests
5. Correspondence
6. Town Administrator's Report/ New Business
7. Signatures
8. Board Reports/New Business
9. Acceptance of minutes

10. Executive Session: MGL Chapter #(s) and, Section #(s) – to discuss strategy with respect to (reason for closed session must be listed). No public announcements are anticipated, the Board will adjourn with loss of quorum.

#### 11. Adjournment

Members of the Board, staff, Town Administrator or others who prepare background material for the meeting should make an effort to have such materials available by 12:00pm the second business day preceding the scheduled meeting. All important correspondence, reports and other pertinent background materials shall be included with the agenda book and be available by days end on the last work day preceding the Board meeting. If background information is insufficient or complicated, or if complex memos or motions are presented during the meeting but were not in the Board’s agenda book, any member should feel free to request the tabling of the item to allow careful study of the material presented or the motion proposed.

The agenda shall be made available to the Board and members of the press, and posted on the Town’s website upon completion of the final draft. The meeting agenda must be posted with the Town Clerk’s office 48-hours in advance, excluding Saturdays, Sundays and Holidays, per State’s Open Meeting Law regulations.

The Board shall not begin discussion of or act on an agenda item after 10:00 PM of a regularly scheduled meeting. This rule may be waived by a majority vote of the members present.

### **MINUTES**

The Secretary to the Select Board shall record open meetings of the Board by an approved method. The Secretary shall provide draft minutes for review by Board members and Town Administrator.

Minutes circulated to members of the Board on or before any posted meeting shall be in order for approval at the next regular meeting of the Board. By unanimous consent, minor corrections may be made to the minutes without advance circulation of such corrections.

Minutes shall contain a full statement of all actions taken by the Board and of the disposition of all proposals for action. Approved minutes shall be recorded in a Minute Book, which shall be bound when filled to capacity. Minutes of Executive Sessions shall be separately kept and recorded in accordance with the above procedures. Minutes (other than of executive session) are open for public inspection. Copies of all approved open session minutes shall be recorded with the Town Clerk. Copies of all approved open session minutes shall also be made available on the Town’s website.

### **CITIZEN’S COMMENT PERIOD**

In order to foster greater direct citizen input and dialogue, in a civil and respectful manner, a “Citizen’s Comment Period” will be on the agenda for all regular Selectmen’s meetings. Every effort should be made to make such allotted time as the first agenda item.

Those wishing to speak should complete a participation sheet with their name, contact information, and reference as to the item or topic they wish to address.

Individuals who have completed the designated form will be allowed up to three (3) minutes to speak, with a maximum of thirty (30) minutes total time allotted for the comment period. The Chairman will allocate and control the time accordingly. However, a majority vote of the Board can allow for extension of time for either individual speakers or the total time allotment, or to suspend the time to conduct other business.

Selectmen are encouraged to limit their comments or responses to simply requesting the topic of discussion be further investigated or put on as a future agenda item.

To this end the following steps will be taken:

1. An individual citizen or group of citizens may request an appointment before the Board by contacting the Town Administrator, stating precisely the reason for the appearance and the action desired and naming a spokesman for the group. Participants shall be given the opportunity to make a reasonable presentation through the spokesman and to express opinions and ask for pertinent information. Background data shall be prepared by the boards and departments involved prior to the appointment insofar as possible, so that all parties can have a reasonable understanding of the subject matter. Citizens are encouraged to have written materials submitted for the Board's meeting packet.
2. Persons who will be directly affected by proposed Board discussions and/or action will be notified by the Secretary of the date and time of the meeting at which the matter will be discussed or acted upon by the Board.
3. If the Board is considering matters of citizen concern at a regular meeting, the public will be allowed to ask questions or make statements relative to the matter under consideration, at the discretion of the Chairman or upon request of any member of the Board.
4. All citizen questions and complaints are to be answered promptly. Questions and concerns relating solely to the Office of Selectmen shall be answered promptly by the Chairman, after consulting with the Board, or at the discretion of the Chairman or the Town Administrator.
5. All other questions and all complaints are to be referred to the Selectmen's Office for action or recommendations. In emergencies or like instances where common sense dictates that the Board member receiving the complaint deal directly with a department head, the Board member shall inform the Town Administrator in writing of the issue and its disposition.

## **2.12 APPOINTMENTS**

### **APPOINTMENTS OF THE SELECT BOARD**

The Board makes numerous appointments each year. Appointments are generally made for one or three years in length. In no case may appointments be made for more than three years unless specifically allowed by State law. Appointments generally are made prior to June 30th expiration dates. In the case of appointments, no second to the nomination or motion will be required prior to Board action. Whenever possible the Board will seek variety in backgrounds, interests, ages, sex and geographic areas of residents so that a true cross section of the community will be reflected. In order to attract qualified and interested persons, vacancies will be made public as far in advance

of appointment as practical. Vacancies could be advertised in the local paper, on Cable TV and on the Town's website. Appointments should be based on merit and qualifications rather than political merit.

The Town Administrator will:

1. Provide no later than June 15th (or according to expiration date of term) a list of the appointment vacancies to be filled by the Board.
2. Notify the chairman of the appropriate board or committee requesting recommendations regarding reappointment or the filling of vacancies.
3. Notify incumbents and request their statements of availability regarding reappointment.

The Selectmen may meet with potential new appointees at an open meeting before making a final decision on the appointment. Appointments will normally be made only when all members of the Board are present. Appointments will be made by a majority vote of the Selectmen.

If a vacancy occurs in any elective town office, other than the Office of Selectmen or Town Clerk, the Selectmen may, in writing, appoint a person to fill such vacancy per MGL and/or Town's General Bylaws.

### **JOINT APPOINTMENTS**

Pursuant to the Town's General Bylaws, if there is a vacancy in a board or committee consisting of three or more members, the remaining members shall give written notice thereof to the Selectmen within one month of said vacancy, who, with the remaining member or members of such board, shall, after one week's notice, fill such vacancy by roll call vote. The Selectmen shall fill such vacancy if such board fails to give said notice within the time herein specified. A majority of the votes of the officers entitled to vote shall be necessary to such election. The person so appointed or elected shall be a registered voter of the town and shall perform the duties of the office until the next annual meeting or until another election is qualified.

Pursuant to the Town's General Bylaws, if a vacancy occurs on the Leicester Advisory Committee, the Select Board, the Moderator, and the remaining members of the Advisory Board shall by 2/3 vote of those present fill any unexpired term to the Advisory Committee as soon as possible after the Town Clerk has been notified that a vacancy exists.

When filling Advisory Committee or elected board vacancies the Select Board shall invite the candidate(s) to a joint meeting of the boards for an interview. The Chairman of the Board will allow each Selectman to ask questions of the candidate and make further comment. The Chairman will then allow each member of the subject board present to ask questions of the candidate and make further comment. The Selectman Chair will then conduct an alternating roll call vote with a Selectman voting first, a member of the subject board second, and so on.

### **ADVISORY COMMITTEES OF THE SELECT BOARD**

The Board may appoint standing or ad hoc advisory committees to aid on matters under the Board's jurisdiction. The use of such advisory committees provides greater expertise and more widespread citizen participation in the operation of the government.

Charge or scope of work for these advisory groups shall be in writing and shall include the work to be undertaken, the time in which it is to be accomplished, and the procedures for reporting to the Selectmen. Each committee must report in writing at least annually to the Selectmen. The Selectmen's Office shall be sent copies of all committee agendas and minutes. The Board will discharge committees upon the completion of their work.

The charge or scope of work and membership of standing advisory committees shall be reviewed periodically - at least annually - to assess the necessity and desirability of continuing the committee. Reappointments will be based on an evaluation of the member's contribution, the desirability of widespread citizen involvement and the changing needs of the committee and the Town.

It is the policy of the Selectmen to appoint qualified citizens representing all sections of the Town to all such advisory committees. The Board will normally appoint no individual to more than one standing advisory committee at any one time.

In order to attract qualified and interested persons, vacancies will be made public as far in advance of appointment as practicable.

## **2.13 BOARD RELATIONS**

### **RELATIONS WITH OTHER TOWN BOARDS, COMMITTEES AND COMMISSIONS**

The Select Board is aware that coordination and cooperation is needed among the Town's major boards, committees and commissions not only in the day-to-day operations of government but also to:

1. Set town-wide goals and priorities.
2. Identify and anticipate major problems, working together toward their mutual resolution.
3. Develop a process for dealing with other governments.
4. Therefore, as the Executive Board historically responsible for the overall leadership and coordination of Town affairs, the Selectmen will:

Regularly scheduled meetings with the chairman of major boards and committees to carry out functions numbered 1, 2, and 3 as listed above. One meeting shall, if possible, be held within two months prior to the Annual Town Meeting for the purpose of reviewing the warrant and expediting town meeting;

Regularly schedule meetings of the Selectmen, Advisory Committee and School Committee with State legislators to discuss legislative issues which affect the Town of Leicester;

The Town Administrator is responsible for inter-board communication in the day-to-day operations of government. The Town Administrator shall develop a process for exchange of information and the provision for advice and recommendations among the boards, committees and commissions with common interest, which shall include but not be limited

to the exchange of minutes, the establishment of a central repository for data, studies and reports, and the appointment of members or staff of boards, committees or commissions as liaison with one another around common projects such as housing needs, revitalization of the center, etc.; and

Appoint certain members of the Select Board to act in the liaison role defined above.

## **RELATIONS WITH CITIZENS**

The Board recognizes that it both represents and is accountable to all the citizens of the Town. It is the Board's policy to make every effort to strengthen communications with citizens. Measures will be instituted to increase citizen participation, encourage citizen input into governmental decisions, and keep citizens informed of all actions contemplated or taken by the Board and Town Meeting which will affect them.

### **2.14 HEARINGS BEFORE THE BOARD**

Hearings before the Select Board generally shall be conducted in accordance with the following procedures. Variations may be necessary to comply with statutory requirements applicable to particular matters. The procedures for conducting license hearings and utility hearings are hereinafter outlined below. (The procedure for conduction Dog Hearings follows this section.)

1. Notice: The Secretary shall advertise the hearing when required and notify interested persons such as abutters as required by statute or Bylaw, as set by office precedent, or as directed by the Chairman or Town Administrator in the absence of statutory requirements.
2. Hearings will be held in open session unless otherwise voted by the Board in compliance with Open Meeting Law.
3. The Chairman will announce the nature and purpose of the hearing, identify the particular matter, and recite the notice given.
4. The order of presentation shall be:
  - a. presentation by the Proposer
  - b. receipt of recommendations from any Town agency or officer
  - c. questions will be accepted first from members of the Board.
  - d. statements by proponents
  - e. statements by opponents
  - f. rebuttal statements by proponents and opponents
  - g. questions may be asked of any person making a statement.
5. The Board may permit persons not desiring to speak to record themselves as in favor or against the proposal. At the discretion of the Board, a show of hands may be taken.

6. At the conclusion of the hearing the Board may render its decision or take the matter under advisement, announcing the intended date of decision.

## **DOG HEARINGS**

A written complaint sworn under oath must be filed with the Select Board. The complaint should describe and name the dog and fully identify the owner. The complaint should further specify why and how the dog is considered to be vicious; specify all times, dates and reasons.

Upon receipt of a request for a hearing, a hearing will be set and included in the agenda for a regular meeting; or, at the discretion of the Chairman, the complaint may be referred to the Town Administrator or his/her designee for mediation. In either case the Secretary will notify the Animal Control Officer and all involved persons. Advertisement of hearing is not required. Hearings will be held in open session. The procedure for conducting a hearing is as follows:

1. Read sworn complaint - fully identify and describe dog, present picture when available. Note that the hearing is being conducted under Chapter 140, Section 157 of the MGLs. If the complainant has not previously filed a sworn written complaint, the complainant must be sworn in at the time of the hearing.
2. Hear reports of the Animal Control Officer and/or health officer - make sure dog is fully identified during this report.
3. Take testimony under oath from complainants who have not previously filed written sworn complaints and all witnesses. Directly question as to why the dog is considered vicious or dangerous. (Are they fearful of dog? Is there excessive barking, etc.?)
4. Take testimony under oath of owner and/or others speaking on his/her behalf.
5. At the conclusion of any mediation hearing, the Town Administrator or his designee may take the matter under advisement, announce the terms of a mediated settlement, or remand the matter to the Select Board. All parties of interest will receive written notice of the outcome.
6. Upon the rendering of decisions by the Select Board, the dog Owner will be notified in writing of the findings via Certified Mail, Return Receipt Requested. If the outcome requires, the appeal language within MGL Chapter 140, Section 157 will be captioned in the text of the letter to the dog Owner and a copy of the law included for the Owner's information.
7. Unless requested by the Board, the dog shall not attend the hearing.

## **2.15 TOWN MEETINGS**

The Selectmen may insert articles into a Town Meeting Warrant on their own initiative, by a written request from an elected board or individual, by written petition from ten (10) registered voters for the Annual Town Meeting or by written petition signed by one hundred (100) registered voters for a Special Town Meeting. The Selectmen may also consider articles upon written request of another board, committee or department head.

1. Special Town Meetings

The Selectmen will call a Special Town Meeting when deferment of a particular matter will not serve the best interest of the Town. The Selectmen must call a Special Town Meeting if they receive a written request, signed by two hundred (200) registered voters. It is the practice of the Town of Leicester to address major issues at the Annual versus a Special Town Meeting. Zoning articles are encouraged to be placed on the usually held Fall Special Town Meeting.

Notwithstanding the above, in the interest of economy of operations and imposition on the voters, the Selectmen shall strive to limit the calling of Special Town Meetings to the minimum necessary as is otherwise in the Town’s best interest. In determining whether to call a Special Town Meeting, the Selectmen may consult with other town committees, officials, and staff as appropriate. It is strongly recommended that the Moderator and Town Clerk be consulted for each Town Meeting.

*(Adopted by Board and inserted 12/04/06):*

For the purpose of this dialogue, “Town Meeting” will mean the Annual Town Meetings and Special Town Meetings.

The Select Board will hold at a minimum one meeting that is designated for any and all boards or departments to come before the Select Board to discuss and seek support for articles being proposed at the upcoming Town Meeting.

The Board will have at minimum one joint meeting with the Finance Advisory Board no less than fourteen (14) calendar days before the town meeting, but after having met or given all boards and departments an opportunity to meet with the Select Board. No other business will take place in this meeting.

The Select Board will render a recommendation on all proposed articles upon the conclusion of the joint meeting with the Advisory Board and those recommendations will be forwarded to the Chairman of the Advisory Board by the close of business on the next business day.

A recommendation of “Town Hall Floor” will not be an acceptable recommendation of the Select Board; nor will it use “Town Hall Floor” as a means to avoid final recommendations until after the joint meeting with the Finance Advisory Board.

The Select Board may render a recommendation of “Insufficient Data Provided” for any article about which a board or committee has not yet met with the Select Board to review.

### **3.0 GENERAL ADMINISTRATION**

#### **3.1 ADA GRIEVANCE - For the General Public**

*Adopted on 9/10/07*

#### **EQUAL ACCESS TO FACILITIES AND ACTIVITIES**

Maximum opportunity will be made available to receive citizen comments, complaints, and/or to resolve grievances or inquiries.

**STEP 1:**

The Town Administrator will be available to meet with citizens and employees during business hours.

When a complaint, grievance, request for program policy interpretation or clarification is received either in writing or through a meeting or telephone call, every effort will be made to create a record regarding the name, address, and telephone number of the person making the complaint, grievance, program policy interpretation or clarification. If the person desires to remain anonymous, he or she may.

A complaint, grievance, request for program policy interpretation or clarification will be responded to within ten (10) working days (if the person making the complaint is identified) in a format that is sensitive to the needs of the recipient, (i.e. verbally, enlarged type face, etc).

Copies of the complaint, grievance, or request for program policy interpretation or clarification and response will be forwarded to the appropriate town agency (i.e. park commission, conservation commission). If the grievance is not resolved at this level it will be progressed to the next level.

**STEP 2:**

A written grievance will be submitted to the Town Administrator. Assistance in writing the grievance will be available to all individuals. All written grievances will be responded to within ten (10) working days by the Town Administrator in a format that is sensitive to the needs of the recipient (i.e. verbally, enlarged type face, etc). If the grievance is not resolved at this level it will be progressed to the next level.

**STEP 3:**

If the grievance is not satisfactorily resolved, citizens will be informed of the opportunity to meet and speak with the Select Board, with whom local authority for final grievance resolution lies.

**3.2 BUY RECYCLED**

*Adopted on September 17, 2007*

In recognition of the need to make more efficient use of our natural resources, create markets for the material collected in recycling programs, reduce solid waste volume and disposal costs, and serve as a model for private and public institutions, the Town of Leicester is committed to purchasing products, which are environmentally preferable and /or made of recycled materials whenever such products meet quality requirements and are available at reasonable price and terms.

To the maximum extent practicable the following standards should be adhered to:

1. For all purchases of printing and writing paper for in-house use or custom printed materials by professional printers, including copier paper, offset paper, forms, stationary, envelopes, tables, notepads and file folders, the minimum content standards shall be no less than 30% post consumer recycled material to meet the current state and federal minimum standards

2. Town departments shall ensure that all contracts for printing require the inclusion of an imprint identifying the recycled content of the paper whenever practicable, along with the recycling symbol.
3. Each department shall implement paper reduction techniques through the use of duplexing, sharing and circulating materials, use of electronic mail, and reuse of discarded paper for draft works, scrap paper and internal messages.

#### Options to add to the basic policy

1. Any deviation from the standards under part “1” above must be approved by the town administrator (or other appropriate municipal chief/ board). The decision not to procure recycled content printing and writing paper meeting these standards shall be based solely on a determination that a satisfactory level of competition does not exist, that items are not available under a reasonable time period, or that items fail to meet reasonable performance standards or are only available at an unreasonable price.
2. Consider targeting additional items to be purchased only with recycled content, such as but not limited to, janitorial paper products, paint, remanufactured toner cartridges and other office (cubical) panels, office supplies, trash bags, energy efficient office equipment, re-refined oil and anti-freeze. (This can be done in the initial policy, or added afterwards).
3. The head of each Town Department should incorporate waste prevention and recycling in daily operations and should work to expand markets for recovered materials through greater preference and demand for recycled products and by revising current purchasing specifications to encourage and promote their purchase.
4. Town Departments shall implement a price preference (10% if possible) to encourage the procurement of recycled and environmentally preferable products.
5. The Town shall require its contractors and consultants to use and specify recycled products in fulfilling contractual obligations wherever practicable.

### **3.3 PROCEDURES FOR DESIGNER SELECTION**

1. Applicability. These procedures shall govern the procurement of “design services” (as such phrase is defined by G.L. c.7, §38A½) for all public building projects where (1) the design fee for the project is estimated to cost \$10,000 or more; or (2) the construction of the project is estimated to cost \$100,000 or more. See G.L. c.7, §38C(e).
2. Exempt Projects. Notwithstanding paragraph 1, above, these procedures do not apply to the following public building projects: (1) projects for which the estimated design fee is less than \$10,000 and the estimated cost of construction is less than \$100,000; (2) projects consisting of the fabrication or installation of modular buildings procured in accordance with the provisions of G.L. c.149, §44E; and (3) projects consisting of energy management services procured in accordance with the provisions of G.L. 25A, §11C. See G.L. c.7, §38C(e).

3. The Select Board has the authority to conduct the designer selection process for the Town. The Select Board may delegate any duties described herein to the extent such delegation is permissible by law.
4. The Select Board shall designate the individual or group of individuals (hereinafter referred to as "the Committee") who will conduct the designer selection process.
5. No member of the Committee shall participate in the selection of a designer for any project if the member, or any of the member's immediate family:
  - (a) has a direct or indirect financial interest in the award of the design contract to any applicant;
  - (b) is currently employed by, or is a consultant to or under contract to, any applicant;
  - (c) is negotiating or has an arrangement concerning future employment or contracting with any applicant; or
  - (d) has an ownership interest in, or is an officer or director of, any applicant.
6. At least two weeks before the deadline for filing applications, a Request for Proposals (RFP) for each contract subject to these procedures shall be advertised (1) in a newspaper of general circulation in the locality of the building project; (2) in the *Central Register* published by the Secretary of the Commonwealth; (3) and in any other place required by the Select Board.
7. The advertisement shall contain the following information:
  - (a) a description of the project, including the specific designer services sought, the time period within which the project is to be completed, and, if available, the estimated construction cost;
  - (b) if there is a program for the building project, a statement of when and where the program will be available for inspection by applicants;
  - (c) when and where a briefing session (if any) will be held;
  - (d) the qualifications required of applicants;
  - (e) the categories of designers' consultants, if any, for which applicants must list names of consultants they may use;
  - (f) whether the fee has been set or will be negotiated; if the fee has been set, the amount of the fee must be listed in the advertisement;
  - (g) when and where the RFP can be obtained and the applications must be delivered.
8. The RFP shall include the current Massachusetts Designer Selection Board "Standard Designer Application Form for Municipalities and Public Agencies Not Within DSB Jurisdiction." The Application Form may be amended to include additional information on a project-specific basis.
9. The Committee shall evaluate applicants based on the following criteria:
  - (a) prior similar experience;
  - (b) past performance on public and private projects;
  - (c) financial stability;
  - (d) identity and qualifications of the consultants who will work with the applicants on the project; and
  - (e) any other criteria that the Committee considers relevant to the project.

10. The Committee shall select at least three finalists. Finalists may, in the discretion of the Committee, be required to appear for an interview or provide additional information to the Committee, and if any finalist is required so to appear, all other finalists will be afforded an equal opportunity to do so.

11. The Committee shall rank the finalists in order of qualification and transmit the list of ranked finalists to the Select Board. An applicant shall not be eligible to be selected as a finalist if that applicant, or if any of that applicant's consultants identified in the application, is debarred pursuant to M.G.L. c.149, §44C.

12. The list of finalists submitted to Select Board will be accompanied by a written explanation of the reasons for selection, including the recorded vote, if any. The written explanation and recorded vote, if any, shall be public records and shall be maintained in the Town's contract file.

13. If the design fee was fixed by the Town prior to the advertisement of the project and the designer selection process, the Select Board shall select a designer from the list of finalists submitted by the Committee. If the Select Board selects a designer other than the one ranked first by the Committee, the Select Board shall file a written justification for the selection with the Committee and maintain a copy of such justification in the Town's contract file.

14. If the design fee is to be negotiated, however, the Select Board shall review the list of finalists submitted by the Committee and may exclude from such list any designer if a written explanation of any such exclusion is filed with the Committee and maintained in the Town's contract file. The Select Board shall request a fee proposal from the first-ranked designer remaining on the list and begin fee negotiations. If the Select Board is unable to negotiate a satisfactory fee with the first-ranked designer, negotiations shall be terminated and undertaken with the remaining designers, one at a time, in the order in which they were ranked by the Committee, until agreement on a fee is reached. If the Select Board is unable to negotiate a satisfactory fee with any of the finalists, the Select Board shall recommend that the Committee select additional finalists.

15. The Town may, in its sole discretion, allow a designer who conducted a feasibility study to continue with the design of a project. The Town may, also in its sole discretion, commission an independent review, by a knowledgeable and competent individual or business doing such work, of the feasibility of the designer's work to insure its reasonableness and its adequacy before allowing the designer to continue on the project, provided that the Town otherwise complies with the statutory requirements for selecting a designer under the Designer Selection Law.

16. Every contract for design services shall include the following:

- (a) certification that the applicant has not given, offered, or agreed to give any person, corporation, or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of the contract for design services;
- (b) certification that no consultant to, or subcontractor for, the applicant has given, offered, or agreed to give any gift, contribution, or offer of employment to the applicant, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the applicant;

- (c) certification that no person, corporation, or other entity, other than a bona fide full-time employee of the applicant, has been retained or hired by the applicant to solicit for or in any way assist the applicant in obtaining the contract for design services upon an agreement or understanding that such person, corporation, or other entity be paid a fee or other consideration contingent upon the award of the contract to the designer; and
- (d) certification that the applicant has internal accounting controls as required by M.G.L. c. 30, §39R(c) and that the applicant has filed and will continue to file an audited financial statement as required by M.G.L. c. 30, §39R(d).

17. All fees shall be stated in design contracts, and in any subsequent amendments thereto, as a total dollar amount. Contracts may provide for equitable adjustments in the event of changes in scope or services.

18. The Town shall not enter into a contract for design services unless the Town or the designer has obtained professional liability insurance covering negligent errors, omissions, and acts of the designer or of any person or business entity for whose performance the designer is legally liable arising out of the performance of the contract. The total amount of such insurance shall at a minimum equal the lesser of one million dollars or 10 percent of the project's estimated cost of construction, or such larger amounts as the Town may require, for the applicable period of limitations. A designer required by the Town to obtain all or a portion of such insurance coverage at its own expense shall furnish a certificate or certificates of insurance coverage to the Town prior to the award of the contract.

19. Every contract for design services shall include a provision that the designer or its consultants shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the designer in the preparation of the bid documents, as reasonably determined by the individual responsible for administering the design contract.

20. In the event of an emergency that precludes the normal use of these designer selection procedures, the Select Board may elect to authorize expedited procedures to address the emergency. The Select Board shall document in writing the reasons for the emergency declaration, the proposed scope of work, the estimated cost of construction, the established fee for the needed design services, and any other relevant information. In such event, the Select Board may select three finalists from any standing list of designers who have applied for projects of a similar nature, or may otherwise select three designers to be considered as finalists for the project. The Select Board shall rank the finalists in order of qualification and select the designer for the emergency work.

21. The Town shall publish the name of any designer awarded a contract in the *Central Register*.

22. The following records shall be kept by the Town:

- (a) all information supplied by or obtained about each applicant;
- (b) all actions taken relating to the project; and
- (c) any other records related to designer selection.

All records shall be available for inspection by the state Designer Selection Board and other authorized agencies.

23. The Town shall evaluate designers' performance on contracts in accordance with M.G.L. c. 7, §38E(g).

24. These procedures are intended to be consistent with, and are subject to, the Designer Selection Law. In the event of any inconsistency among these procedures and the provisions of the Designer Selection Law, as existing as of the date of the adoption of these procedures or as subsequently amended by the Legislature, the provisions of the Designer Selection Law shall control.

25. For any municipal design or construction project *that includes funding provided by the Commonwealth, in whole or in part* (such as reimbursements, grants and the like), cities and towns must incorporate minority-owned business enterprise and women-owned business enterprise participation goals. If applicable, the Awarding Authority shall take steps to assure that it complies with all State Office of Minority and Women Business Assistance requirements.

### **3.4 FUEL EFFICIENT VEHICLES**

#### **Policy statement**

In an effort to reduce carbon dioxide emissions, fuel consumption, and energy costs, the Town of Leicester Select Board is hereby committed to purchasing only fuel efficient vehicles to meet this goal, effective immediately.

#### **Purpose**

The purpose of this policy is to establish practice that the Town of Leicester shall purchase only fuel efficient vehicles for municipal use, whenever such vehicles are commercially available and practicable.

#### **Definitions**

Combined city and highway MPG (EPA Combined Fuel Economy (CFE)):

Combined Fuel Economy means the fuel economy from driving a combination of 43% city and 57% highway miles and is calculated as follows:

$$= 1 / ((0.43 / \text{City MPG}) + (0.57 / \text{highway MPG}))$$

Drive System:

The manner in which mechanical power is directly transmitted from the drive shaft to the wheels.

The following codes are used in the drive field:

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

Heavy-duty vehicle:

A vehicle with a manufacturer’s gross vehicle weight rating (GVWR) of more than 8,500 pounds.

**Applicability**

This policy applies to all divisions and departments of the Town of Leicester, including School Department.

**Guidelines**

All departments shall purchase only fuel-efficient vehicles for municipal use, whenever such vehicles are commercially available and practicable.

The Town of Leicester will maintain an annual vehicle inventory for both exempt and non-exempt vehicles and a plan for replacing these vehicles with vehicles that meet, at a minimum, the fuel efficiency ratings contained in the most recent guidance for Criteria 4 published by the Massachusetts Department of Energy Resources’ “Green Communities Division”. The fuel efficiency ratings contained therein are based on the most recently published US Environmental Protection Agency combined city and highway MPG ratings for vehicles.

This “Green Communities” guidance for Criteria 4 must be checked for updates prior to ordering replacement vehicles.

**Exemptions**

Heavy-duty vehicles are exempt. Examples include fire-trucks, ambulances, and some public works trucks that meet the definition of “heavy-duty vehicle”.

Police cruisers, passenger vans, and cargo vans are exempt from this criterion as fuel efficient models are not currently available. However, we commit to purchasing fuel efficient police cruisers, passenger vans, and cargo vans when they become commercially available. Police and fire department administrative vehicles are NOT exempt and must meet fuel efficient requirements.

**Inventory**

The following information shall be included in a vehicle inventory list and said list shall be updated on an annual basis:

Model	Make	Model Year	Drive System	Year/month Purchased	> 8500 pounds? (yes/no)	Exempt or non-exempt	MPG Rating	Vehicle Function
			2-WD 4-WD A-WD					

*NOTE: Departments may use EPA combined MPG estimates or actual combined MPG.*

**Anti-idling policy**

No employee of the Town of Leicester shall allow operation of the engine of a motor vehicle while said vehicle is stopped for a foreseeable period of time in excess of five minutes, unless such operation is necessary.

**Fuel efficient vehicle replacement plan**

The Town of Leicester shall develop a plan to replace all non-exempt vehicles with fuel efficient vehicles as defined above. Said plan shall outline the process by which the Town will replace vehicles, set goals for when the existing fleet will be replaced, and review said plan on an annual basis.

**Questions / Enforcement**

Inquiries should be directed to the department responsible for fleet management and/or fleet procurement. This policy is enforced by the Select Board and/or their designee(s).

**3.5 SOCIAL MEDIA POLICY**

*Adopted July 22, 2019*

*This document replaces the policy dated July 21, 2014*

**I Policy**

- A. Introduction: The Town of Leicester (The “Town”) depends on a work environment of tolerance, respect and cooperation for the achievement of its goals in serving the citizens of the Town.
- B. Purpose: The purpose of this policy is to provide notice to the Employees and Officials of the Town that their use of Social Media must conform to federal and state law and to this policy. The policy is designed to promote and govern the professional and personal use of Social Media in a responsible manner and avoid uses that can (a) breach confidentiality by revealing protected information about the Town, it’s citizens, or its employees; (b) expose the Town to legal liability for employer or employee behavior that may be harassing, offensive, or maliciously false; or (c) interfere with productivity and/or ability to perform the duties and responsibilities as Employees of the Town.
- C. Application: This section describes acceptable and unacceptable uses of ALL Social Media by Employees of the Town. Employees and Officials should use their best personal judgement when using any form of Social Media and must ensure that their use does not violate this or any other Town policy or standards of conduct, rules, regulations and/or bylaws.
- D. Responsibility: The Town Administrator or his/her designee is responsible for facilitating and enforcing the Town’s Social Media Policy.

## **II Definitions:**

1. The Town – Town of Leicester
2. Employees – All persons employed by the Town regardless of position
3. Officials: Individuals who hold office in the Town, whether elected or appointed, including boards and committees.
4. Users - Employees of the Town (Individuals or groups) who use, direct, or control a Town social media account
5. Social Media - Online forums in which Users participate in the exchange of ideas, messages, and content, including blogs, microblogs, and social networking sites (e.g. Facebook, Twitter, LinkedIn, etc.)
6. Electronic Media – All forms of electronic communication, transmission, or storage, including, but not limited to websites and any content contained in or related thereto.

## **III Use of Town-Owned Equipment for Social Media Sites**

- A. Employees are directed to the Social Media Policy for Town-Owned Sites. In general, only employees whose jobs require access to Town-owned Social Media may post or edit content on those sites.
- B. There is no right to privacy for electronic communications on Town equipment. The Town reserves the right to review and/or monitor all electronic records and communications, at any time, with or without notice, including individual user folders, email and other information stored on the Town’s Electronic Media. In accessing the Internet, including Social Media sites, Users should assume that all connections and sites visited will be monitored and recorded. This examination helps to ensure compliance with Town policies, assists when internal investigations must be conducted, and supports the management of the Town’s information systems. Use of the Town’s electronic communication devices, including, but not limited to Town-issued email systems, Internet, cell phones, smart phones, laptops, computers, and software constitutes acceptance of such monitoring. All postings on Town managed website will comply with the Public Records Act.

## **IV Town Site Content**

- A. Users responsible for Town Social Media and websites are responsible for their content and upkeep of said accounts.
- B. Town websites shall remain the primary and predominant source for internet information.
- C. CodeRED shall remain the Town’s primary emergency notification system.

- D. Social Media content shall fully comply with the items in this section.
- E. Information and comments shared through Social Media channels shall not disclose confidential or proprietary information.
- F. Electronic information posted to a Town Social Media content site by the Town, or by a member of the public, may be considered a record subject to the Massachusetts Public Records Law.
- G. Electronic information posted by Employees must not include:
  - 1. Comments not topically related;
  - 2. Profane language or comment;
  - 3. Content that promotes, fosters or perpetuates discrimination based on race, creed, religion, color, age, marital status, gender, gender identity, status with regard to public assistance, national origin, physical or mental disability, or sexual orientation;
  - 4. Sexual content or links to sexual content;
  - 5. Solicitations of commerce;
  - 6. Conduct or encouragement of illegal activity;
  - 7. Information that may compromise the safety or security of the public or public systems;
  - 8. Content that violates a legal ownership interest of any other party.

## **V Use of Private Social Media**

- A. Employees are prohibited from accessing private/personal Social Media during working hours.**
- B. The Town acknowledges that its Employees have a First Amendment right to free speech, but that right is not absolute. While Employees may maintain and use Social Media privately, such as personal web pages and websites, blogs, microblogs, social networking sites and other forms of Social Media, their status as Employees of the Town requires that the content of any postings on Social Media sites or other web pages not be in violation of existing Town Bylaws, policies, directives, rules, or regulations. It is important that the Town maintains its status as a professional organization comprised of professional employees in order to maintain the respect of its constituents. Employees must exercise caution with respect to photos or comments they post in general, and in particular those concerning the Town, a particular department of the Town, and or the Town's Employees or Officials.
- C. All use of Social media must conform to the following regulations:

1. All users are expected and required to conduct themselves in a manner consistent with the Town's policies and standards of conduct.
2. Users must not reveal any confidential, personal or privileged information about the Town, its constituents, or its contractors.
3. Users must not harass any other Employees or Officials in contravention of the Town's other policies and standards of conduct, rules, regulations, and by-laws, regardless of the time, place form, or manner in which the information is posted or transmitted. Comments may be deemed to violate this Policy even if the Town's name or the names of any of its Employees or Officials are not posted in the comment.
4. Users must only post information and news that is honest and accurate, and must quickly correct any discovered errors or omissions. Users may not post rumors, or information that they know to be false about the Town, its Officials, Employees, constituents, suppliers, vendors, contractors, or other entities or individuals.
5. Users who operate Town Social Media sites may post announcements, news, and general information only. Town Social Media sites are not to contain personal opinions, observations, or similar content.
6. Users may express their only opinions on Social Media and should never represent themselves as a spokesman for the Town unless specifically designated by the Town. If the Town is a subject of the comment created by an Employee or Official, the Employee or Official should be clear and open about the fact that he/she is and Employee or Official of the Town and that his/her views do not necessarily represent those of the Town, its Officials, Employees, suppliers, vendors, or any other agent of the Town.
7. Employees are expressly prohibited from using Social Media to engage in any activity or conduct that violates federal, state, or local law (e.g., software or data piracy, child pornography, etc.)
8. Access to and Use of Social Media must not interfere with an Employee's productivity and/or an Employee's ability to perform the duties and responsibilities of Employment with the Town.
9. Employees are prohibited from using Social Media to engage in any activity that constitutes a conflict of interest for the Town or any of its Employees.

10. Department Heads and supervisors are expressly prohibited from using any review or recommendation feature or system on a Social Media site (e.g., LinkedIn) to post reviews, recommendations, or other comments about subordinate employees.
  11. Employees are expressly prohibited from using Social Media to request, acquire, or purchase genetic information of an individual Employee, constituent, or family member of the individual Employee or customer, as specified by the EEOC's regulations governing Title II of GINA, 29 C.F.R. Sec 1635, et seq., except for information that is inadvertently or lawfully acquired pursuant to 29 C.F.R. Sec 1635.8(b).
- D. The Town specifically acknowledges that police officers and firefighters may be required to use Social Media to perform their job duties and that such use, subject to the direction and authorization of the respective Chief, is permissible although such use may otherwise appear to violate this Policy. Such actions, however, will be not be deemed to violate this Policy provided the police officer or firefighter acts within the scope of his/her Chief's direction or authority.
  - E. This Policy does not interfere with employee rights under Massachusetts General Laws Chapter 150E.
  - F. The Town encourages anyone who uses Social Media in contravention of this policy to be promptly report any error or mistake as soon as they are known. Although errors or mistakes cannot always be erased, prompt notification may make a significant difference in the Town's ability to correct or remedy this issue.

## **VI Complaints of Misuse:**

Should any Employee of the Town receive or become aware of a violation of this policy, the Employee should report the violation to the Town Administrator as soon as possible.

The Town will not take action against any Employee who, in good faith, reports a possible deviation from or violation of this Policy or for cooperating in an investigation. Any Employee who retaliates against another Employee for, in good faith, reporting a potential violation of this Policy or for cooperating in an investigation may be subject to disciplinary action, up to and including termination.

### **A. Officials:**

The Town recognizes that Officials constitute a major part of the Town's personnel structure, and therefore applicable portions of the Town's Social Media Policy should

be applied to individuals who are Officials. Elected Officials are exempt from this Policy, as they are installed or removed from office by general or special election.

Appointed officials are subject to this policy, with the exception of Section III in its entirety, and Section IV C8 of this Policy.

**B. Discipline:**

Any Employee who violates this policy may be subject to appropriate discipline, up to and including termination of employment.<sup>1</sup> In the case of an appointed Official, discipline up to and including termination of appointment by the Appointing Authority shall be considered.

The Town intends to follow each provision of this Policy but reserves the right to change any provision at any time. A failure to enforce this Policy does not constitute a subsequent waiver of any violation of this Policy. This Policy shall be read and interpreted in conjunction with all other Town policies and procedures.

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<sup>1</sup> Employees covered by a collective bargaining agreement will be subject to discipline in accordance with the terms of the applicable agreement.

TOWN OF LEICESTER SOCIAL MEDIA POLICY

**Acknowledgement of Receipt of Policy**

I acknowledge receipt of this Social Media Policy from the Town, and that I have read it. I understand that all Social Media usage and all information transmitted by, received from, or stored in Town electronic systems or servers are the property of the Town. I also understand that I have no expectation of privacy in connection with the use of Town electronic communications or with the transmission, receipt or storage of information in these systems. I acknowledge and consent to the Town monitoring my use of its electronic communications at any time, at its discretion. Such monitoring may include reviewing Internet websites visited, including Social Media sites, printing and reading all email entering, leaving, or stored in these systems, and/or reviewing all documents created or downloaded. I understand that all e-mail messages are subject to the Town’s email deletion and retention procedures.

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

### **3.6 DISPOSAL OF SURPLUS SUPPLIES AND EQUIPMENT**

#### **With an Estimated Net Value of Less Than \$5,000**

Pursuant to MGL Ch. 30B, section 15(f)

#### **Purpose**

The intent of this policy is to maximize the revenue the Town generates from the disposal of surplus supplies and equipment through an efficient process.

1. The term “surplus supplies” includes motor vehicles, machinery, computer equipment, furniture, scrap metal, furniture and other materials and supplies.
2. For those supplies and equipment with an estimated net value of less than \$5,000, submit a memorandum from the Department Head to the Town Administrator seeking approval to declare the supplies to be surplus. Provide a list of the items to be disposed of and an estimated value of the items.
3. After receiving the Town Administrator’s approval offer surplus supplies to other departments.
4. If the surplus supplies are not needed by any other departments, the Town Administrator may authorize any of the additional procedures to be followed:
  - A. Trade-in with the purchase of equipment
  - B. Sell to other governmental units that are known to be interested
  - C. Seek quotes from three or more parties/vendors
  - D. Advertise the equipment publicly using no-cost advertising and inform the Board of Selectmen of available equipment prior to a sale or auction
- 5: The Town Administrator shall authorize the final disposal of any surplus supply with a final value of no more than \$1,000 as determined by the procedures defined in section 4. The Town administrator shall authorize the surplus supply item to be recycled or trashed if there is no resale or salvage value.
- 6: The Select Board shall authorize the final disposal of any surplus supply with a final value of greater than \$1,000 as determined by the procedures defined in section 4.
7. Information technology equipment can be passed on through departments, recycled, and sold externally only after being “decommissioned”. Failing to do so can cause problems if data is not removed in a satisfactory manner because these systems may contain disks that hold information that is confidential and proprietary in nature. The Town Administrator shall document the decommissioning for each piece of IT equipment. The original user or records custodian shall be sure to save files for future use in accordance with applicable public records laws. In addition to records and files, software must be removed in order to adhere to various licensing agreements.

8: The Town reserves the right to accept or reject any or all offers. All sales shall be made on an “as is”, “where is” basis. All property sold shall be paid for by cash, Cashier’s Check, Certified Check or Money Order payable to the Town of Leicester. The Town will furnish the successful purchaser a completely executed form, which will detail the description of the material covered, the sale price and the sale terms. Purchaser must indicate agreement by signing and returning it to the Purchasing Department.

### **3.7 MUNICIPAL FLAG POLICY**

*Adopted on March 18, 2019*

#### **Scope**

This policy shall encompass all Municipal American flags on Leicester Town property, including, but not limited to, flags at the Town Hall, Police and Fire Stations, Library, Highway, Schools and on the Town Common.

#### **Purpose**

To ensure that all of Leicester’s municipal flags are flown appropriately.

#### **Standard Flag Protocol**

All American flags shall be flown in accordance with applicable state and federal Laws.

In particular:

1. The American Flag shall be flown only during daylight hours, unless properly lit.
2. The American Flag should not be flown during inclement weather.
3. The American Flag shall be flown at full mast unless otherwise indicated by this policy.
4. The American Flag shall be flown on all federal and state holidays.

#### **Half Staff Protocol**

Leicester’s municipal American Flags shall be flown at half-staff under the following conditions:

1. When so ordered by the federal government or President of the United States.
2. When so ordered by the state government or the Governor of the Commonwealth of Massachusetts.
3. Upon the death of any in-service or retired military personnel with principle residence in the Town of Leicester, upon request.
4. Upon the death of any active Leicester municipal official or employee, upon request
5. Upon the death of any former Leicester municipal official or employee, upon request

Note: When the American Flag is flown at half-staff after the death of an individual it shall remain at half-staff the Monday of the week of interment until burial, unless otherwise indicated.

### **Half Staff Process**

In the case of requests to fly the Flag at half-staff, the Town Administrator shall poll the Select Board, either at a posted meeting, or individually via email or telephone. Upon authorization by the Board, the Town Administrator shall inform all departments and pertinent individuals of the need to fly the American Flag at half-mast via email. In addition, the Town Administrator may inform individuals by telephone or in person, if it is more expedient.

## **4.0 FINANCIAL**

### **4.1 FREE CASH POLICY**

*Adopted on September 21, 2015*

#### **Purpose**

This policy sets forth guidelines for the use of certified free cash in the operating budget, capital budget and stabilization fund. The goal of this policy is to reduce the use of free cash in the operating budget and instead invest free cash into the capital budget, stabilization fund and other one-time expenses to build and maintain long term reserves for the Town.

#### **Definitions**

Free cash is a revenue source consisting of a community's remaining, unrestricted operating funds from the previous fiscal year. The calculation of free cash is based on the balance sheet as of June 30<sup>th</sup>. Free cash must be certified annually the Department of Revenue before it can be appropriated by Town Meeting.

#### **Policy**

The Town will strive to generate free cash in an amount equal to 3-5% of its annual budget as recommended by the Department of Revenue. The purpose of maintaining an unappropriated amount of free cash is to provide for cash flow and to have funds available if necessary for emergency appropriation. Free cash will not be depleted in any year so the following year's calculation can begin with a positive balance. Conservative revenue projections and departmental appropriations will be used. The Town's goal is to limit the amount of free cash used in the operating budget to a sustainable level and use these available funds for non-recurring one-time expenses such as capital items and unexpected/extraordinary expenses which would be otherwise carried over to the following year. The Town will not use Free Cash as a source to balance its operating budget.

#### **Procedure**

The Town Administrator shall review and assess the overall financial condition of the Town. Thereafter, the Town Administrator will propose a plan for the utilization of free cash to the Select Board in accordance with the policy above. The Town Administrator shall use the following goals as a guide when establishing the plan:

- 1) At least 10% of free cash shall be reserved and not appropriated
- 2) At least 25% of the remaining free cash will be placed into the Stabilization Fund or a lesser balance if such an amount is required to meet the Town's Stabilization Fund Policy
- 3) At least 50% of the remaining free cash will be used to fund the capital budget

- 4) The remaining balance shall be utilized for additional one time needs for non-capital projects and items or shall remain not appropriated

Fiscal conditions may affect the implementation of this policy. Exceptions to the free cash policy shall be made only under extraordinary circumstances and any such exception shall be explained to the voters.

## **4.2 UNCOLLECTIBLE ACCOUNTS RECEIVABLE POLICY**

*Adopted on September 21, 2015*

### **Purpose**

The purpose of this policy is to ensure that all reasonable measures have been taken to collect accounts receivable, improve the tracking of the Town's accounts receivable and to ensure the most efficient use of the Town's revenue collection resources. This policy will enable the Town to properly value accounts receivable through the regular review and write-off of uncollectible accounts.

### **Policy**

It is the policy of the Town of Leicester to actively pursue collection of past-due accounts receivable, regularly review the status of past-due accounts and write-off amounts determined to be uncollectible. A write-off of uncollectible accounts receivable from the Town's accounting records does not constitute forgiveness of the debt or a gift of public funds.

### **Procedure**

Collection procedures are established by the respective departments with the approval of the Town Administrator and will vary depending on the nature of the receivable. Accounts receivable should generally be written-off during the fiscal year in which an account is determined to be uncollectible. Subsequent collection of an account previously written-off will be treated as new revenue in the appropriate fund.

An account will be considered uncollectible after the appropriate collection procedures have been followed if it meets one or more of the following criteria:

- The debt is disputed and the Town has insufficient documentation to pursue collection efforts
- The cost of further collection efforts will exceed the estimated recovery amount
- The account remains unpaid after the lesser of four years or the applicable period for the commencement of a recovery action under the statute of limitations
- Neither the debtor or the debtor's assets can be located
- The debtor has no assets and there is no expectation they will have any in the future
- The debtor has died and there is no known estate or guarantor
- The debtor is a company which is no longer in business
- The debt is discharged through legal action (bankruptcy or court judgement)
- The debt has been forgiven by action of the Select Board

Each department will identify any accounts receivable for which it is responsible that meet the criteria for designation as an uncollectible account annually by January 31st. A request for write-off accounts receivable will be submitted to the Town Administrator. The request must include an itemized list of the uncollectible accounts to be written off specifying the debtor name, account balance, due date, brief description of receivable type and the criteria under which the account was deemed uncollectible. The request must be accompanied by documentation to support the uncollectible account designation and to substantiate that the department has exercised due diligence in its collection efforts.

The Town Administrator is authorized to approve the write-off of accounts up to \$10,000. Write-offs in excess of \$10,000 must be approved by the Select Board.

Once approved, uncollectible accounts may be written off of the Town's financial accounting records and no longer recognized as collectible receivables for financial reporting purposes, but the legal obligation to pay the debt still remains.

The Town Administrator will provide an annual report of uncollectible accounts receivable which have been written-off to the Select Board in February of each year.

#### **4.3 RETIREE HEALTH INSURANCE PAYMENT RULE**

*Adopted on June 6, 2016*

##### **Basis**

This Rule is issued pursuant to M.G.L. c. 32B, Section 11.

##### **Purpose**

The purpose of this Rule is to establish procedures for the payment of health insurance premiums by retired Town employees.

##### **Rule**

1. Employees who retire from service with the Town of Leicester are eligible to participate as members in the group health insurance plans that are made available by the Town in accordance with those plans for retired employees, subject to this Rule.
2. The Town will seek advice from the Health Insurance Advisory Committee regarding new contract negotiations with health insurance providers. However, the Town reserves the right to determine the plans that are made available to retired employees and the premium contributions amounts for the retirees.
3. Retiree premiums will be paid through pension check deductions. The retiree is responsible for paying any difference between the premium and the amount of his/her pension check, if the check is not sufficient to fully cover the premium amount due.
4. A retiree who fails to pay by the date specified will be dropped from active coverage in the Town's health and will not be eligible to reenroll until the next available open enrollment period, in accordance with this Rule as indicated below.

**Procedure**

1. When a Town employee applies for a pension benefit, he or she will be given health insurance information by the Town Treasurer, including the amount of the monthly payment, when the payment is due and where to remit payment
2. Premiums for retiree health insurance plans will first be paid through pension check deductions taken from the retirees’ monthly pension check. Should the deduction amount exceed the amount of the pension check, the retiree is responsible for paying the difference up to the full amount of the premium for which a retiree is responsible. At no time will a retiree be permitted to be more than sixty (60) days in arrears on payments.
3. Any premium balance remaining after pension check deduction must be paid to the Treasurer/Collector prior to the 15<sup>th</sup> day of the billing month for the following month’s insurance coverage. If Payment is not received by the 15<sup>th</sup> day of the billing month for the following month’s insurance coverage, a notice will be sent to the retiree that payment is due no later than the 15<sup>th</sup> day of the coverage month.
4. If the full amount is not received by the 15<sup>th</sup> day of the second consecutive coverage month, the retiree will be subject to removal from the insurance plan. A cancellation notice will be mailed to the retiree on or before the end of the coverage month providing notice that the retiree will no longer have health insurance coverage through the Town of Leicester, retroactive to the 1<sup>st</sup> day of the second consecutive coverage month.

*Example:*

*Coverage Period: April 1 through 30*  
*Retired Employee April Balance Due: March 15*  
*April Past Due Notice Mailed on or before: March 25*  
*May Premium Payment Due: April 15*  
*Cancellation Notice Mailed on or before: May 15*  
*Coverage Cancelled Retroactive to: May 1*

6. Retirees who enroll in the Town’s group health insurance plan and are removed from the plan-for failure to pay the premiums shall not be permitted to reenroll in the insurance plan prior to the next open enrollment period.

**4.4 OVERLAY POLICY**

*Adopted on March 6, 2017*

**Purpose**

This policy sets forth guidelines for determining the annual overlay amount in the Town's budget and for deciding whether any overlay balance can be certified as surplus.

**Definitions**

The allowance for abatements and exemptions, commonly referred to as the overlay, is an account whose purpose is to offset anticipated abatements and exemptions of committed real and personal property taxes. Effective December 7, 2016, the Municipal Modernization Act (Chapter 218 of the Acts of 2016) allows for all existing overlay balances to be transferred to a single overlay account.

## **Policy**

### **A. Annual Overlay**

Each year, the Board of Assessors shall vote in an open meeting to authorize a supplemental contribution to the overlay account as part of the budget process and to raise it without appropriation on the Town's Tax Recap Sheet. The Principal Assessor will propose this annual overlay amount to the Board of Assessors based on the following:

- Current balance in the overlay account
- Three-year average of granted abatements and exemptions
- Potential abatement liability in cases pending before, or on appeal from, the Appellate Tax Board (ATB)
- Timing of the next certification review by the Division of Local Services (scheduled every five years under the Municipal Modernization Act)

The Board of Assessors shall notify the Town Administrator and Treasurer/Collector of the amount of overlay voted.

### **B. Excess Overlay**

Annually, the Treasurer/Collector and Principal Assessor will conduct an analysis to see if there is any excess in the overlay account by factoring the following:

- Current balance in the overlay account after reconciling with the Town Accountant's records
- Balance of the property tax receivables, which represents the total real and personal property taxes still outstanding for all levy years
- Estimated amount of potential abatements, including any cases subject to ATB hearings or other litigation
- Upon determining any excess in the overlay account, the Principal Assessor shall present the analysis to the Board of Assessors for its review and also notify the Town Administrator and Treasurer/Collector.

### **C. Overlay Surplus**

If there is an excess balance in the overlay account, the Board of Assessors shall formally vote in an open meeting to certify the amount to transfer to overlay surplus and shall notify the Town Administrator and the Treasurer/Collector in writing of its vote. If the Town Administrator makes a written request for a determination of overlay surplus, the Board of Assessors shall vote on the matter within the next 10 days and notify the Town Administrator of the result in writing.

After being certified, the Select Board may request Town Meeting appropriate overlay surplus for any lawful purpose until the end of the fiscal year. Overlay surplus not appropriated by year-end closes to the general fund's undesignated fund balance.

## **REFERENCES**

M.G.L. c. 59, §25 Chapter 218 of the Acts of 2016

## **4.5 STABILIZATION POLICY**

*Adopted March 20, 2017*

### **Purpose**

The purpose of this policy is to set forth guidelines for Town of Leicester's stabilization funds including the annual percentage of revenues that should be allocated to these funds.

### **Definitions**

In accordance with MGL Ch. 40 Sec. 5B, towns may establish one or more stabilization fund for any lawful purpose. A stabilization fund is a mechanism for setting aside monies for purposes such as unforeseen needs or capital projects. Stabilization funds allow a Town to save money for future years and avoid borrowing for capital projects.

### **Policy**

In accordance with Mass General Laws, the total balance of all stabilization funds must not exceed 10 percent of a community's equalized valuation nor can any appropriation placed into a fund exceed 10% of the previous year's property tax levy. The Town of Leicester has a goal of maintaining a minimum of 5% of its total revenues in its stabilization funds. The use of stabilization funds for operating and personnel costs should be avoided whenever possible.

### **Procedure**

In accordance with the Town's Free Cash Policy adopted by the Select Board on September 21, 2015, at least 25% of the free cash remaining after 10% has been reserved should be placed into stabilization funds.

A two-thirds vote of Town Meeting is required to establish each new stabilization fund (purpose of fund must be specified), amend the purpose of the fund and appropriate funds into the account. A nine-tenths vote of Town Meeting is required withdraw funds from the General Stabilization Account in accordance with special legislation adopted at Town Meeting on May 2, 2005 and signed by the Governor on June 9, 2005. A two-thirds vote is required to withdraw funds from all other stabilization accounts.

Stabilization funds should be invested in separate investment accounts in national savings or cooperative banks, Massachusetts trust companies, federal savings and loan associations located in Massachusetts or securities that are legal investments for savings banks under Massachusetts law.

All interest earned on the investment of stabilization funds belongs to the funds. The Treasurer may pool monies from all stabilization funds for investment purposes but the Accountant must account for them separately in the general ledger and allocate interest earned on the pooled monies proportionately to each stabilization fund.

Reserves accumulated in a stabilization fund carry forward from one fiscal year to another.

## **5.0 PERSONNEL**

### **5.1 CONFIDENTIALITY**

During the course of work for the Town of Leicester, individuals will come in contact with confidential information. Under Massachusetts General Law (Chapter 268A, Section 23, and Chapter 214, Section 1B) individuals are required to safeguard this confidential information, whether an appointed or elected official or employee, with the Town of Leicester.

Strict confidence must be maintained and confidential information must not be released to any unauthorized person, including family members or friends.

Divulging any confidential information learned in the course of performing duties to an unauthorized person may subject individuals to discipline.

### **5.2 DISCRIMINATORY HARASSMENT POLICY**

#### **Introduction**

It is the goal of the Town of Leicester to promote a workplace that is free of discriminatory harassment of any type, including sexual harassment. Discriminatory harassment consists of unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law, such as sex, race, color, national origin, religion, age, disability, or sexual orientation. The Town of Leicester will not tolerate harassing conduct that affects employment conditions, that interferes unreasonably with an individual's performance, or that creates an intimidating, hostile, or offensive work environment. Harassment of employees occurring in the workplace, in connection with work-related travel, and/or work-sponsored events will not be tolerated. Further, any retaliation against an individual who has complained about harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated.

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

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

#### **Definitions**

Harassment means unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law. Harassment includes, but is not limited to:

1. Display or circulation of written materials or pictures that are degrading to a person or group as previously described.
2. Verbal abuse, slurs, derogatory comments, or insults about, directed at, or made in the presence of an individual or group as previously described.

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

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

For additional information, refer to the *Town of Leicester Sexual Harassment: Policy and Procedures*, adopted by the Select Board February 18, 1997.

### **Complaint Procedures**

All employees, managers, and supervisors of the Town of Leicester share responsibility for avoiding, discouraging, and reporting any form of discriminatory harassment. The primary responsibility for ensuring proper investigation and resolution of harassment complaints rests with Town Administrator, or his/her designee, who will administer the policy and procedures described herein.

If any employee of the Town of Leicester believes he or she has been subjected to discriminatory harassment, the employee has the right to file a complaint with our organization. This may be done in writing or orally. In addition, residents, visitors, applicants, vendors, contractors, their agents and employees, or other third parties who believe they have been subjected to discriminatory harassment may also file a complaint with our organization using the procedures described herein. Furthermore, employees may also file a complaint if they have been subjected to harassment in the workplace from residents, visitors, applicants, vendors, contractors, their agents and employees, or any other third parties, while performing work-related duties, or during other work-related activities.

Prompt reporting of harassment is in the best interest of our organization and is essential to a fair, timely, and thorough investigation. Accordingly, complaints should be filed as soon as possible following the incident(s) at issue. If you would like to file a complaint you may do so by contacting Kevin J. Mizikar, 3 Washburn Square, Leicester, MA 01524 at (508) 892-7000. Mr. Mizikar is also available to discuss any concerns you may have and to provide information to you about our policy on harassment and our complaint process.

### **Complaint Investigation**

When we receive the complaint, we will promptly investigate the allegation in a fair and expeditious manner to determine whether there has been a violation of our policy. The investigation will be conducted in such a way as to maintain confidentiality to the extent

practicable under the circumstances. Our investigation will include private interviews with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed harassment. The complainant, the person alleged to have committed harassment, and all witnesses are required to fully cooperate with all aspects of an investigation. Attorneys are not permitted to be present or participate in the complaint investigation. When we have completed our investigation, we will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

Notwithstanding any provision of this policy, we reserve the right to investigate and take action on our own initiative in response to behavior and conduct which may constitute harassment or otherwise be inappropriate, regardless of whether an actual complaint has been filed.

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

### **Disciplinary Action**

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment and may include such other forms of disciplinary action as we deem appropriate under the circumstances.

### **State and Federal Remedies**

In addition to the above, if you believe you have been subjected to discriminatory harassment of any type, including sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies requires that claims be filed within 300 days from the alleged incident of when the complainant became aware of the incident.

#### **The United States Equal Employment Opportunity Commission (EEOC)**

John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
(800) 669-4000

#### **The Massachusetts Commission Against Discrimination (MCAD)**

Boston Office:  
One Ashburton Place  
6<sup>th</sup> Floor, Room 601  
Boston, MA 02108  
(617) 994-6000

Springfield Office:  
436 Dwight Street  
2<sup>nd</sup> Floor, Room 220  
Springfield, MA 01103  
(413) 739-2145

Worcester Office:  
Worcester City Hall  
455 Main Street, Room 100

Worcester, MA 01608  
(508) 799-8010

### **5.3 HARASSMENT OF INDIVIDUALS IN PROTECTED CLASSES**

*Adopted by on January 24, 2011*

#### **Introduction**

The Town of Leicester (the “Town”) depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to providing a working environment that is free of all forms of abuse or harassment. The Town recognizes the right of all employees to be treated with respect and dignity.

Harassment on the basis of race, creed, color, national origin, gender, age, military status, physical or mental disability, sexual orientation, or genetic information (hereafter referred to as “protected class harassment”) is a form of behavior that adversely affects the employment relationship. It is prohibited by Federal and/or State law. Protected class harassment of individuals occurring in the workplace or in other settings in which individuals of the Town may find themselves in connection with their employment is unlawful and will not be tolerated by the Town. The Town also condemns and prohibits protected class harassment by any applicant, client, vendor or visitor.

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

It is important to note that while this policy sets forth our goals of promoting a workplace that is free of protected class harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of protected class harassment.

#### **Definition of Protected Class Harassment**

Protected class harassment refers to behavior, which is not welcomed by the employee, which is personally offensive to him or her, and which undermines morale and/or interferes with the ability of the employee to work effectively. While it is not possible to list all of the circumstances that may constitute protected class harassment, depending upon the totality of the facts, including the severity of the conduct and its pervasiveness, following is a list of situations that could constitute protected class harassment.

verbal abuse on the basis of any protected status;

use of words that degrade a protected class or person because of his/her protected class status;

jokes or language about a protected class;

obscene or suggestive gestures or sounds intended to relate to the protected class;

teasing related to the protected class;

verbal comments of a nature about an individual's appearance or terms used to describe an individual that are related to the individual's protected class;

verbal abuse, comments, jokes, teasing or threats directed at a person because of his/her protected class status;

posting or distributing objects, pictures, cartoons or other materials degrading to the protected class or a person because of his/her protected class status;

letters or notes that degrade the protected class or a person because of his/her protected class status;

sending offensive or discriminatory messages or materials through the use of electronic communications (e.g., electronic mail, including the Internet, voice mail and facsimile) which are degrading to the protected class or a person because of his/her protected class status;  
condoning harassment on the basis of protected class.

Harassment on the basis of protected class status is not limited to behavior by a non-member of the protected class. Protected class harassment can occur in a variety of circumstances. Here are some things to remember:

The harasser does not have to be the victim's supervisor;

A member of the protected class may be victimized by another member of the protected class;

The victim does not have to be the person at whom the unwelcome protected class harassment is directed;

The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the co-worker or interferes with the co-worker's work performance.

### **Individual Responsibilities**

Each individual of the Town is personally responsible for:

ensuring that his/her conduct does not harass any other employee or person with whom the employee comes in contact on the job, such as an outside vendor;

cooperating in any investigation of alleged protected class harassment by providing any information he/she possesses concerning the matter being investigated;

actively participating in efforts to prevent and eliminate protected class harassment and to maintain a working environment free from such discrimination; and

ensuring that an employee who files a protected class harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

### **The Rule**

It is, therefore, against the policy of the Town for any individual, whether a member of a protected class or not, to harass another individual on the basis of protected class status by:

making submission to such conduct either implicitly or explicitly a term or condition of an employee's employment;

making submission to, or rejection of, such conduct by an individual the basis for employment decisions affecting the employee;

intending to or having the effect of interfering with an individual's work performance; or

by creating a hostile or intimidating work environment for the employee.

It is also against the policy of the Town for an individual to harass any person with whom the employee comes in contact on the job or to engage in any protected class harassment or inappropriate or unprofessional conduct in the workplace.

### **Retaliation**

Retaliation against an individual for filing a complaint of protected class harassment or against any individual for cooperating in an investigation of a protected class harassment complaint is against the law.

### **Violation of Policy**

Any individual violating this policy will be subject to appropriate discipline, including possible discharge.

### **Procedures for Complaints**

The Town has designated a Protected Class Harassment Grievance Officer. The current Protected Class Harassment Grievance Officer is Kevin J. Mizikar, Town Administrator, can be reached at 3 Washburn Square, Leicester MA 01524 and his telephone number is (508)892-7000. If you would prefer, you may contact Kathleen Asquith, Assistant Assessor, who has been designated as the Alternate Protected Class Harassment Grievance Officer. She can be reached at 3 Washburn Square, Leicester MA 01524 and her telephone number is (508)892-7001.

If any individual believes he or she has been subject to protected class harassment on the basis of his/her protected class, the individual should initiate a complaint by contacting the Protected Class Harassment Grievance Officer as soon as possible. The individual should file the complaint promptly following any incident of protected class harassment. The individual should be aware that the longer the period of time between the event giving rise to the complaint and the filing, the more difficult it will be for the Protected Class Harassment Grievance Officer to reconstruct what occurred. The individual will be requested to write out his or her complaint to document the charge.

If an employee prefers to discuss a possible protected class harassment problem with his or her supervisor, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting protected class harassment and may go directly to the Grievance Officer.

### **Investigation**

On receiving the complaint, the Protected Class Harassment Grievance Officer or the Alternate Protected Class Harassment Grievance Officer will promptly have a review made into the matter. If after the completion of this review it is determined that there is a reasonable basis for finding a violation of this policy, the Town will conduct an investigation. The charged employee will be requested to respond to the complaint. The investigation will be made to the extent appropriate in each case. This process will be confidential to the extent consistent with an effective investigation, subject to the business needs of the Town.

### **Decision**

After the response of the charged individual has been made, and any further investigation which may be warranted has been carried out, the Town will make a final decision. If the Town finds that the allegations in the complaint have been established by the investigation, the Town will initiate discipline of the charged individual. Discipline will be appropriate to the offense and employees involved, and may include discharge.<sup>2</sup>

The complainant will be notified of the disposition of the investigation.

### **State and Federal Agencies**

The Massachusetts Commission Against Discrimination (“MCAD”), located at One Ashburton Place, Boston, MA 02108, and 436 Dwight Street, Springfield, MA 01103, is responsible for enforcing the Massachusetts discrimination and protected class harassment law, and the U.S. Equal Employment Opportunity Commission (“EEOC”) is responsible for enforcing the federal law prohibiting protected class harassment. The EEOC is located at JFK Federal Office Building, Government Center, Room 475, Boston, MA 02203. They may be contacted at the above addresses. A complaint to the MCAD must be filed within 300 days. A complaint under the federal law should be filed within 180 days, but under certain circumstances, a federal complaint may be filed within 300 days.

## **5.4 CRIMINAL OFFENDER RECORDS INFORMATION - BACKGROUND CHECKS**

The Town of Leicester Select Board hereby authorizes and instructs the Town Administrator, in compliance with MGL Chapter 6 Section 167 through Section 178, to obtain background checks for all Leicester employees hired after January 1, 2012, all new hires and volunteers, and those applicants seriously being considered for hire after screening as described below.

The Town Administrator, or his designee, shall apply on behalf of the Town for appropriate authorization of certification to be issued by the Criminal History Systems Board (CHSB) and shall cause the Town to become Criminal Offender Record Information (CORI) certified. The

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<sup>2</sup> Employees of the Town that are members of a bargaining unit shall be subject to discipline in accordance with the terms of the applicable Collective Bargaining Agreement.

Town Administrator, or his designee, shall act on behalf of the Town by requesting CORI information to the extent permitted by law for:

1. All Town employees hired after December 19, 2011, including all seasonal employees whenever hired;
2. All volunteers associated after December 19, 2011 with Town programs or facilities who have contact with or access to children, the disabled, or the elderly;
3. All applicants hired or seriously being considered for hiring after December 19, 2011 and upon screening by the Select Board, whether such positions are seasonal or permanent. When possible, CORI information will be obtained before such screened applicants to these positions are approved. When not possible, CORI information shall be obtained by the Town Administrator, or his designee, within thirty days of such screened applicant's approval by the Select Board.
4. CORI information will also be obtained by the Town Administrator or the appropriate CORI certified department manager for all police, firefighter and liquor license applicants.

Under the following Procedure

1. All applicants will be notified that a CORI check will be conducted. If requested, the applicant will be provided with a copy of the CORI policy.
2. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on CORI checks will be made consistent with this policy and any applicable law or regulations.
3. If a criminal record is received from CHSB, the authorized individual will closely compare the record provided by CHSB with the information on the CORI request form and any other identifying information provided by the applicant, to ensure the record relates to the applicant.
4. If the Town is inclined to make an adverse decision based on the results of the CORI check, the applicant will be notified immediately. The applicant shall be provided with a copy of the criminal record and the organization's CORI policy, advised of the part(s) of the record that make the individual unsuitable for the position or license, and given an opportunity to dispute the accuracy and relevance of the CORI record.
5. Applicants challenging the accuracy of the policy shall be provided a copy of CHSB's ***Information Concerning the Process in Correcting a Criminal Record***. If the CORI record provided does not exactly match the identification information provided by the applicant, (organization name) will make a determination based on a comparison of the CORI record and documents provided by the applicant. The (organization name) may contact CHSB and request a detailed search consistent with CHSB policy.
6. If the Town reasonably believes the record belongs to the applicant and is accurate, based on the information as provided in section 6 of this policy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to the following:
  - (a) Relevance of the crime to the position sought;
  - (b) The nature of the work to be performed;
  - (c) Time since the conviction;
  - (d) Age of the candidate at the time of the offense;
  - (e) Seriousness and specific circumstances of the offense;

- (f) The number of offenses;
  - (g) Whether the applicant has pending charges;
  - (h) Any relevant evidence of rehabilitation or lack thereof;
  - (i) Any other relevant information, including information submitted by the candidate or requested by the hiring authority
7. The Town will notify the applicant of the decision and the basis of the decision in a timely manner.

The order or level in which the Town Administrator will obtain such CORI information shall be:

1. Pursuant to general authorization of certification to the CHSB;
2. An application for a position-specific authorization to the CHSB where appropriate;
3. A public access request to the CHSB in the event that general authorization is inapplicable or unavailable.

The Town Administrator, or his designee, may also employ a third-party background checking service or agency, provided that there is compliance with relevant provisions of the Fair Credit Reporting Act or other applicable statutes.

(Exempt from this policy will be the employees subject to the reporting requirements of MGL Chapter 71, Section 38R.)

## **5.5 FAMILY AND MEDICAL LEAVE**

An employee who has worked for the Town of Leicester (Town) for at least twelve (12) months (whether or not consecutive) and for at least 1,250 hours during the previous twelve (12) months is entitled to take Family and Medical Leave (FMLA) under the circumstances described below.

### **Qualifying Reasons for Leave**

The Town will allow eligible employees to take Family Medical Leave for the following qualifying reasons:

pregnancy or the birth of a child;  
placement of a child with the employee for adoption or foster care;

serious illness of the employee's child, stepchild, or ward who lives with the employee, foster child, parent, or spouse; or

employee's own serious illness.

“Serious illness” means an accident, disease, or physical or mental condition, including illness, injury, or impairment, that:

poses imminent danger of death;

requires inpatient care in a hospital, hospice, or nursing home; or

requires continuing treatment, including outpatient treatment, by a health care provider.

### **Military Family Leave**

Section 585(a) of the NDAA (National Defense Authorization Act) amended the FMLA to provide two new leave entitlements (effective January 28, 2008):

**Military Caregiver Leave (also known as Covered Service member Leave):** Under the first of these new military family leave entitlements, eligible employees who are family members of covered service members will be able to take up to 26 workweeks of leave in a single 12-month period to care for a covered service member with a serious illness or injury incurred in the line of duty on active duty. Based on a recommendation of the President’s Commission on Wounded Warriors (The Dole-Shalala Commission), this 26 workweek entitlement is a special provision that extends FMLA job-protected leave beyond the normal 12 weeks of FMLA leave. This provision also extends FMLA protection to additional family members (i.e., next of kin) beyond those who may take FMLA leave for other qualifying reasons.

*H.R. 2647 amended and effective 10/28/2009 expands the caregiver leave provision to include veterans who are undergoing medical treatment, recuperation or therapy for serious injury or illness that occurred any time during the five years preceding date of treatment.*

**Qualifying Exigency Leave:** The second new military leave entitlement helps families of members of the National Guard and Reserves manage their affairs while the member is on active duty in support of a contingency operation. This provision makes the normal 12 workweeks of FMLA job-protected leave available to eligible employees with a covered military member serving in the National Guard or Reserves to use for any qualifying exigency arising out of the fact that a covered military member is on active duty or called to active duty status in support of a contingency operation. The Department’s final rule defines qualifying exigency by referring to a number of broad categories for which employees can use FMLA leave including:

- short-notice deployment,
- military events and related activities,
- childcare and school activities,
- financial and legal arrangements,
- counseling,
- rest and recuperation,
- post-deployment activities, and
- additional activities not encompassed in the other categories, but agreed to by the employer and employee.

*(H.R. 2647 amended and effective 10/28/2009 expands the exigency leave benefits to include family members of active duty service members.)*

**Length of Leave – 12 weeks except where noted above under Caregiver Leave**

Eligible employees may use a maximum of twelve weeks of FMLA Leave during a rolling 12-month period. A *rolling 12-month period* is defined by the Town to be the 12-month period measured backward from the first day of any Family Medical Leave used by an employee.

Family Medical Leave need not be taken at one time. It may also be taken on an intermittent basis or used to reduce your work schedule during the period of the serious illness, if there is a medical need for such leave and that need can best be accommodated through an intermittent or reduced leave schedule. If you need intermittent Family Medical Leave or a reduced schedule, you must attempt to schedule the Leave so as not to disrupt the operations of the Town. The Town may assign you to an alternate position with equivalent pay and benefits that better accommodates your intermittent leave or reduced schedule.

### **Payment for FMLA Leave**

Family Medical Leave will be unpaid unless the employee chooses to use accrued paid vacation time or sick leave. Employees have the right to use any amount of accrued, unused paid leave for any part of the 12-week period. However, accrued paid leave may not be used to extend FMLA Leave. FMLA Leave will run concurrently with absences from work covered by workers' compensation.

### **Notices**

You must give reasonable notice of the need to take FMLA Leave to the Town when it is foreseeable. *Reasonable notice* means notice that is given as soon as is practicable. If the necessity for Family Medical Leave is based on planned medical treatment, you must provide at least thirty (30) days' notice and make a reasonable effort to schedule the treatment so as to not unduly disrupt the Town's operations, subject to the approval of the health care provider.

The Town requires that any Family Medical Leave request that is based on a serious illness of the employee or family member, or that is for an intermittent or reduced schedule, be supported by the certification of a health care provider on the form provided by the Town for that purpose. Copies of the Certification of Health Care Provider form are available from the Town Administrator's office. You must obtain a re-certification of the need for leave for your serious illness or that of a family member every thirty (30) days or at the end of the predicted minimum period of absence (whichever is later) in order to establish the continuing need for Family Medical Leave.

If you are taking Family Medical Leave because of your own serious illness, you must present certification from your health care provider indicating that you are able to return to work.

### **Updates While on Leave**

Any employee on Family Medical Leave must report to the Town periodically, but at least once per month, regarding his/her status and intent to return to work. Additionally, an employee must notify the Town as soon as possible when he/she is able to return to work so that the organization may make the appropriate arrangements to reinstate the employee.

### **Return from Leave**

Upon returning from leave, you will be returned to your previous position, or a comparable position with equal pay, benefits, seniority, and other terms and conditions of employment, unless

one of the following exceptions applies. If, during the period of Family Medical Leave, the Town would have ended your employment or you would have been laid off for reasons unrelated to the leave, the Town will not reinstate you to your previous position. Additionally, if you performed unique services and hiring a permanent replacement during the leave was necessary to prevent substantial and grievous economic injury to the Town, we will notify you of the Town's intent not to reinstate you after the expiration of your Family Medical Leave.

If you choose not to return to work at the expiration of the Family Medical Leave for reasons other than the continuation of a serious illness or reasons beyond your control, you must reimburse the Town for the employer portion of premiums it paid in maintaining group health and dental benefits during your Family Medical Leave.

If you do return from Family Medical leave, you will be restored to your former position, or to an equivalent position with equivalent pay, and you will be credited for benefits and other terms and conditions of employment for the time you were on Family Medical Leave.

Please contact the Town Administrator if you have any questions about this policy.

## **5.6 SAFETY**

*Adopted on February 22, 1993*

Whereas, the Select Board and the Town of Leicester consider no phase of operation or administration as being of greater importance than safety management, it is the policy of this Board to provide and maintain safe and healthful working conditions and to establish and insist on safe work methods and safe work practices at all times.

It is the Department Head's responsibility to implement this policy in these vital areas by:

Developing an application of safety standards for facilities, machinery, equipment, tools and work practices that are based on applicable OSHA, State Standards, and safe work practices.

Education and training and general safety policies and procedures adopted by the organization and on-the-job safety instruction.

Safety and fire inspections to identify potential hazards or operation.

Accident investigation to determine the cause of accidents and the remedial action required to prevent recurrences.

Motor vehicle safety operating procedures.

Identification of potential health hazards and development of necessary protective measures.

Safety publicity and promotion to maintain interest and participation.

It shall be the responsibility of the Department Heads, through the Select Board, to establish and administer a safety management plan through appropriate rules and regulations and reporting procedures.

It shall be the responsibility of all employees to adhere to these safety rules and regulations at all times by operating in a manner that prevents accidental losses from occurring.

## **5.7 ELECTRONIC COMMUNICATIONS COMPUTER TECHNOLOGY/INTERNET ACCESS POLICY**

### **Purpose**

The purpose of this policy is to ensure the appropriate use of computer resources, monitor and maintain productivity, prevent harm to the interests of the town and its employees, and to prevent the violation of various local, state and federal laws.

### **Policy**

#### Town of Leicester Property

All components of the computer, technology and communications systems, including but not limited to hardware, software and all message contents, are the property of the town. The computer, technology and communications systems, including e-mail and internet access, are business tools provided by the town and is to be used for official Town business purposes only.

#### Review and Monitoring of E-mail and Internet Access

The Town reserves the right to monitor and review e-mail messages and Internet access communications. This includes internet sites visited, duration of employees' Internet use, and files that have been viewed, accessed or downloaded. E-mail messages and Internet access are not private and employees should not consider their e-mail messages and Internet access to be private. Your username or password does not give you any right to privacy with respect to using the town's e-mail and Internet systems.

All Email use by the any member of any committee, board or commission of the Town of Leicester will comply with the requirements of the Open Meeting Law. A copy of this statute is given to all committee members by the Town Clerk when they take the oath of office.

Email communications by, between, or among Committee members will not address substantive policy issues, decisions, or deliberations. Email may not be used to discuss policy issues on an item coming before the Committee for discussion, to make decisions, or carry on deliberations.

Email communication by, between or among Committee members may only be used to schedule meetings, send informative messages, request information or similar administrative type communications.

Prohibited uses of e-mail and the internet: It is impermissible to use e-mail and/or the Internet to:

engage in unlawful or inappropriate behavior;

transmit material that contains offensive or harassing remarks based on sex, race, religion, national origin, disability, sexual orientation or age;

transmit sexually explicit material, including messages, pictures, jokes and cartoons; access or visit Web sites that contain sexually explicit, racist or other offensive material, or post messages at such Web sites;

pirate software or download or transmit unlicensed software programs or any other copyrighted or trademarked materials;

Introduce any computer programs or software into the Town’s network that are not related to their job or town related business; and

### **Violation of this Policy**

Any violations of this policy may result in disciplinary action up to and including termination of employment.

### **Public records Applicability**

The term “public records” is defined by statute to include all documentary materials or data, regardless of physical form or characteristics, made or received by an officer or employee of any agency or municipality of the Commonwealth, unless falling within a statutory exemption (M.G.L. C.4, S.7). Therefore, the Secretary of the Commonwealth advises that the Public Records Law clearly applies to government records generated or received electronically. All electronic mail sent, and all electronic mail received by principal addressees (not received as a “cc”) at a Town-issued address, or any address when in an official capacity, should be considered a public record subject to inspection and disclosure and scheduled retention and disposition. *Employees and committee members acting in their official capacity should have no expectation of privacy in their use of electronic mail.*

## **5.8 OVERTIME**

*Adopted November 16, 2010*

All hourly, nonexempt employees who work overtime will be paid at time and one-half the employee’s regular pay for all actual hours worked in excess of 40 hours in a work week, provided that vacation leave and bereavement leave, but not sick leave and personal leave, shall be counted as actual hours worked for the purposes of calculating overtime.

Employees may choose to receive compensatory time off in lieu of overtime wages, in accordance with the Town’s Compensatory Time Policy.

The appropriate supervisor must approve working overtime in advance.

This Policy shall not apply to public safety employees as defined by the Fair Labor Standards Act.

The Town Administrator may promulgate procedures and guidelines to carry out this Policy.

This Policy is subject to any Collective Bargaining requirements and any conflicting Union contract provisions.

## **5.9 COMPENSATORY TIME POLICY**

*Adopted November 16, 2010*

### **Nonexempt, Full-Time Employees**

Nonexempt full-time employees are paid hourly at straight time through the 40<sup>th</sup> hour in a workweek. Overtime work after actually working 40 hours in a work week will be compensated at the employee's choice of either wages or compensatory time at a rate of time and one-half.

Notice must be given by the employee to his or her supervisor whether they wish to be compensated with wages or compensatory time at the time the overtime is worked. Compensatory time may not be accumulated beyond 80 compensatory hours.

All overtime must be authorized by a supervisor.

Compensatory time must be used by the employee within one year from the date it is earned.

### **Exempt Employees**

Exempt employees are not entitled to compensatory time.

### **Procedure**

The Town Administrator may promulgate procedures and guidelines to carry out this Policy.

### **Collective Bargaining**

This Policy is subject to any Collective Bargaining requirements and any conflicting Union contract provisions.

This Policy shall not apply to public safety employees as defined by the Fair Labor Standards Act.

## **5.10 DISCIPLINE**

### **Corrective Action Principles and Procedures**

The Town expects employees to perform assigned duties at satisfactory levels, to follow accepted standards of workplace behavior, and to comply strictly with all laws, rules, and regulations. The

purpose of corrective action is to correct problem situations, provide an atmosphere in which the employee can learn from past mistakes, and minimize the employee's loss of dignity and self-esteem.

Furthermore, the Town believes that certain basic principles must be consistently applied in order to effectively and fairly correct inappropriate job performance and behavior:

Employees shall be advised, within reason, of expected job performance and behavior, the types of conduct that the Employer has determined to be unacceptable, and the usual penalties for unacceptable job performance or behavior;

Immediate attention shall be given to job performance or behavior infractions;

Corrective action shall normally be applied uniformly and consistently, and each offense shall be dealt with as objectively as possible;

Corrective action shall normally be progressive in nature; and

An employee's department head shall normally be responsible for any corrective action prior to suspension, demotion, or removal. Department heads shall normally be permitted input regarding the appropriateness of suspensions, demotions, or removals.

The Town will normally follow a system of progressive corrective action when dealing with inappropriate job performance or behavior.

The Town has adopted this policy as a guide for the uniform administration of corrective action. It is not, however, to be construed in any ways as a limitation of management's rights when dealing with inappropriate job performance or behavior.

Records of instruction and counseling will normally cease to have force and effect eighteen (18) months from their effective date, providing the employee does not receive corrective measures for the same or similar infraction during such time period. Letters or reprimand will also normally cease to have force and effect eighteen (18) months from the effective date, providing the employee does not receive corrective measures for the same or similar infraction during such time period. Records of suspension and demotion will normally cease to have force and effect thirty (30) months from the effective date, providing the employee does not receive corrective measures for the same or similar infraction during such time period.

All multiple policy infractions will normally be dealt with by following the system of progressive corrective action set forth below:

1. Informal counseling;
2. Written reprimand;
3. Suspension; and
4. Discharge.

Multiple infractions, which are unrelated, receive progressive corrective measures in accordance with the severity of the infraction.

Multiple infractions, which are related, receive progressive corrective measures regardless of the order in which the infractions occurred.

### **Complaints Procedure**

A. The Town recognizes that within any organization, there will be occasional differences among its employees regarding interpretations of rules or other problems stemming from conditions of employment. In order to provide employees with an orderly process by which to seek resolution of such differences, the Town has established the following complaint procedure.

B. Complaint Procedure

Step 1: Any employee having a complaint may lodge his complaint verbally with his department head. In order for the complaint to be recognized, it must be lodged within three (3) working days from the date the alleged incident which prompted the complaint occurred. Within seven (7) working days from the date the employee first presented his complaint, the department head will meet with the employee and attempt to resolve the matters.

Step 2: If the complaint is not resolved in Step 1, the employee may pursue the matter by reducing the complaint to writing and presenting such to the Town Administrator, or other designated person, within three (3) working days of the reply received in Step 1. The Town administrator, or designee will if deemed necessary, meet with the complainant to discuss the matter. The Town Administrator shall hear and decide on the matter.

Step 3: If the Town Administrator's response is still not satisfactory to the employee, s/he may appeal to the Appointing Authority, with the same time limits as Step 2. The Appointing Authority will issue a written response that will be final and binding on all parties.

In the event of extenuating circumstances, a time limit may be extended, by the mutual agreement of both parties, in writing.

Complaints not processed by the employee to the next step of the procedure within the specified time limits, or any written extension thereof, shall be considered resolved on the basis of the decision at the previous step.

Any complaint not answered within the prescribed time limit, or extension thereof, shall be considered to have been answered in the negative and may be advanced by the employee to the next step.

## **Disciplinary Actions**

The Town expects employees to meet its standards of performance and behavior to comply with and carry out Town and departmental rules and regulations. As is the case with all organizations and entities, instances arise when an employee must be reprimanded, suspended, or discharged, with or without notice. Although “progressive discipline” is frequently applied, the Town will administer discipline according to the situation and the Town’s needs.

### **Types of Disciplinary Action:**

Disciplinary action taken against an employee may include (but are not limited to) the following: 1) Informal counseling; 2) Written reprimand; 3) Suspension without pay or demotion; 4) Dismissal.

### **Enacting Discipline:**

The Town Administrator may for disciplinary purposes, may:

Counsel employees;

Issue written reprimands;

Suspend employees under allegation of misconduct which may lead to termination until appropriate investigation can be conducted and/or hearings can occur if in his/her opinion it is in the best interest of the Town to do so;

Suspend without pay any employee of the Town for such length of time as he/she considers appropriate not exceeding one work week (one week’s pay).

A written statement specifically setting forth the reasons for the suspension will be given to the affected employee and placed in the employees personnel file.

## **Dismissal**

Dismissals are discharges or separations made for delinquency, misconduct, inefficiency, inability to perform the duties of a position satisfactorily, or other reason. The Select Board may dismiss any employee when they conclude that such dismissal is for the good of the Town.

## **5.11 CELL PHONE USAGE IN VEHICLES**

### **Devices**

This Cell Phone Usage in a Vehicle Policy applies to any device that makes or receives phone calls, leaves messages, sends text messages, accesses the Internet, or downloads and allows for the reading of and responding to email whether the device is company-supplied or personally owned.

## Policy

Unless otherwise and specifically authorized by law, contract, or supervisory authority:

*Town of Leicester Property:* An employee of the Town of Leicester who uses a *Town-supplied device or a Town-supplied vehicle* is prohibited from using a cell phone or similar device while operating a vehicle or equipment, whether the business conducted is personal or Town-related. This prohibition includes receiving or placing calls, text messaging, accessing the Internet, receiving or responding to email, checking for phone messages, or any other purpose. To safely use a cell phone or similar device you are required to stop the vehicle in a safe location.

Public safety personnel may in rare instances utilize cell phones or similar devices for official business through the use of a hands-free device to receive incoming voice calls. All other activities including the initiation of voice calls are strictly prohibited while operating a vehicle or equipment.

*Personal Property:* In addition, the Town of Leicester prohibits employee use of personal cellular phones or similar devices while operating a vehicle or equipment and while on the clock.

### Violation of this Policy

*Amended by the Select Board 11/30/2009*

*Adopted by the Select Board 11/16/2009*

Any violation of this policy may result in disciplinary action up to and including termination of employment.

## 6.0 PUBLIC SAFETY/PUBLIC GOOD

### 6.1 USE OF HIRED CONTRACTORS FOR SNOW and ICE REMOVAL

It is the duty and obligation of the Town of Leicester to maintain and protect public safety during inclement winter weather events by removing snow and ice from Town-owned roadways. To meet this duty and obligation, the Town Administrator and Highway Superintendent, acting through the direction of the Select Board, shall cause snow and ice to be efficiently removed from the Town-owned roadways within its financial means through minimal use of hired contractors and/or overtime.

### 6.2 STREET GRINDINGS, STREET SWEEPINGS and GRAVEL

This policy, as adopted by the Select Board and effective August 27, 2018 updates and clarifies the Town policy for surplus materials generated by the Highway Department. The materials included in this policy and their definitions follow:

**GRINDINGS:** Damaged asphalt removed during road repair and pavement processes, which can be used as base material for application to dirt roads or filling potholes.

**STREET SWEEPINGS:** Sand, salt and debris removed from town roads every spring. The street sweepings are considered hazardous materials and must be processed according to DEP policies and cannot be made available to the public

**GRAVEL:** An unconsolidated mixture of rock fragments that is coarser than sand. As gravel is purchased specifically for particular projects, it is anticipated that there would not be surplus.

**COMPOST:** Compost is available at the Town’s composting site and is excluded from this policy.

**SAND:** Fine rock and mineral which may be spread on roads and driveways for traction during the winter. Sand is not distributed pursuant to this policy as it is generally available to residents in small quantities every winter.

**OTHER RAW MATERIAL:** Any other surplus material used by the Highway Department in the course of its duties.

#### DISPOSITION OF SURPLUS MATERIALS

The Highway Superintendent, when appropriate, will determine and declare which amounts of the materials defined above (with the exception of street sweepings) are surplus to the needs of the Town of Leicester. Disposition of this surplus will be made complying with the following procedure:

- 1.) If the value of the surplus material exceeds \$10,000, said material will be disposed of pursuant to M.G.L. 30b, Section 15 and The Town’s written rules for disposition of excess supplies.
- 2.) If the value of the surplus material does not exceed \$10,000, said material will be available to Town of Leicester residents and organizations at the Leicester Highway garage. Announcement of availability of materials will be posted on the Town website. Materials will be made available on a first come-first served basis and will be distributed at a date and time chosen by the Superintendent.
- 3.) Residents requesting materials will be required to fill out and sign a request for surplus materials form (Attached to this policy) before receiving materials. The form may be filled out in advance of materials becoming available.

#### LIMITATIONS OF AVAILABILITY; USE OF HIGHWAY PERSONNEL/VEHICLES

Under no circumstance will the Town offer to set aside quantities of material, as the intent of the policy is to allow the surplus materials to be used by as many residents as possible. Under no circumstances will Leicester Highway personnel or vehicles be used to deliver materials to non-town owned properties once the materials have been brought to the Highway Garage

### **6.3 SANDING and PLOWING OF DEAD-END STREETS**

The Town of Leicester has numerous dead-end streets that are public ways and have to be maintained in winter weather conditions.

This policy allows the Highway Superintendent to determine the best way to effectively maintain these streets. This includes but is not limited to:

- A. Plowing and/or sanding as the truck drives up the street, then backing out
- B. Backing down the street then plowing and/or sanding on the way out
- C. Plowing and/or sanding as the truck drives up the street, then turning around on a resident's property

There are currently no less than nineteen (19) streets that fall into this category

For these streets the superintendent will obtain the homeowner's permission to access their property and maintain the property while turning around

The Superintendent will have full authority to decide at any time what is the most efficient way to plow or sand any street that the Town is obligated to maintain. This includes obtaining permission from the homeowner (if available) to use their property to turn around in the situation when a street is impassable and the truck has to turn around from the direction it originally came. The Superintendent may get permission from the homeowner to pile up snow on the resident's property and further plow the resident's driveway as an accommodation for piling the snow and turning around on the resident's land. The permission given only a license to use the resident's land continuing from year to year and is not an easement and is revocable at any time by the Town or the resident.

In addition, in the case of heavy snowfall and if there is an emergency situation, the highway superintendent can determine if it is in the best interest of safety to open the driveway of any essential personnel.

During the instances that there is a large snowfall and the streets end up with very high snow banks, the Highway Superintendent will have the authority to determine if and when the highway crew will open private driveways on these streets due to the volume of snow plowed onto those properties.

The Superintendent will make every effort to maintain a log of when and where these types of instances occur.

## **6.4 PARKING RULES and REGULATIONS**

*Adopted on August 29, 1994*

*Amended on December 11, 1995*

*Amended on January 25, 2010 – parking fines changed*

*Amended on May 22, 2017 – increased handicapped parking fee to \$300*

*Amended on August 27, 2018 – parking of commercial vehicles*

*Amended on August 19, 2019 – adoption of MGL Chapter 90; Section 20A½*

The following rules and orders regulating the parking of vehicles upon streets and highways within the Town of Leicester are hereby enacted by the Board of Selectmen under the provisions of Section 22 of Chapter 40 of the Massachusetts General Laws.

- I. Definitions** – for the purpose of these rules and orders, the words and phrases used herein shall have the following meanings, except in these instances where the context clearly indicates a different meaning:
- A. Parking Clerk – the person appointed by the Board of Selectmen under the provisions of MGL Chapter 90, Section 20A1/2 to supervise and coordinate the processing of parking violations in the Town.
  - B. MassDOT – The Massachusetts Department of Transportation of the Commonwealth of Massachusetts.
  - C. Officer – any police officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
  - D. Vehicle – every device in, upon, or which any person or property is or may be transported or drawn upon a highway, including bicycles when the provisions of these rules are applicable to them, except other devices moved by human power.
  - E. Bus Stop – an area in the roadway set aside for the board of or alighting from buses.
  - F. Caution Signal – a flashing yellow signal having the same general functions as a warning signal.
  - G. Channelizing Island – a traffic island located to guide traffic streams along certain definite paths and to prevent the promiscuous movement of vehicles in what would otherwise be a widely extended roadway area.
  - H. Crosswalk – that portion of a roadway ordinarily included within the extensions of the sidewalk lines, or, if none, then the footpath lines, and at any place in a highway clearly indicated for pedestrian crossing by lines or markers upon the roadway surface.
  - I. Pedestrian – any person afoot or riding on a conveyance moved by human power, except bicycles or tricycles.
  - J. Sidewalk – that portion of a highway set aside for pedestrian travel.
  - K. Bus – every vehicle designed for carrying more than eight (8) passengers and used primarily for the transportation of persons either for compensation, as a service, or as an adjunct to a school program.
  - L. Bicycle – any wheeled vehicle propelled by pedals and operated by one or more persons.
  - M. Highway Department – The Highway Department of the Town of Leicester.

- N. Traffic Island – any area or space set aside, within a roadway, which is not intended for use by vehicular traffic.
- O. Roadway – that portion of a highway between the regularly established curb lines or that part, exclusive of shoulders, improved and intended to be used for vehicular traffic.
- P. Lane – a longitudinal division of a roadway of sufficient width to accommodate the passage of a single line of vehicles, whether or not such lane is indicated by pavement markings or longitudinal construction joints.
- Q. Emergency Vehicles – vehicles of the fire department, police vehicles, and such ambulance and emergency vehicles of federal, state or municipal departments or public service corporations as are commonly recognized as such.

## **II. Authority and Duties of Police**

- A. The Chief of Police is authorized to prohibit parking on any street or highway, or part thereof, in an impending or existing emergency, or for a lawful assembly, demonstration or procession.
- B. The Chief of Police is authorized to close, temporarily, any street or highway in an impending or existing emergency, or for any lawful assembly, demonstration or procession.
- C. It shall be the duty of every police officer to take cognizance of any violation of any rule or regulation regulating the parking of motor vehicles and give the offender a notice as provided in Section 20A of Chapter 90 of Mass. General Laws.
- D. Police officers may remove or cause to be removed vehicles found in violation of Article 4, Section C, of the Parking Rules & Regulations of the Town of Leicester.

## **III. Official Traffic Signs**

- A. The provisions of these rules and regulations shall be effective only during such time as a sufficient number of parking signs are installed, erected, maintained and located so as to be visible to approaching drivers; said signs shall conform to the standards prescribed by MassDOT.

## **IV. Parking**

- A. No person shall stand or park any vehicle in any street, way or highway under the control of the Town, and no person shall allow, permit, or suffer any vehicle registered

- in his name to stand or park in any street, way or highway under the control of the Town in violation of any rules and regulations of the Town as authorized under Section 22 of Chapter 40 of the Mass. General Laws except with the direction of a police officer or traffic sign.
- B. No person shall stand or park any vehicle in any street, way or highway under the control of the MassDOT in violation of Section 1, Article II of the rules and regulations of the MassDOT as authorized by Section 2 of Chapter 85 of the Mass. General Laws.
- C. In accordance with Article IV, Section A of these rules and regulations in particular, in any of the following places, no person shall park a vehicle:
1. within any crosswalk
  2. within any bus stop
  3. within any intersection
  4. upon any sidewalk
  5. upon any channelizing or traffic island
  6. upon any roadway in a rural or sparsely settled district
  7. upon any street or highway within ten feet of a fire hydrant
  8. upon any roadway where the parking of a vehicle will not leave a clear and unobstructed lane ten feet wide in each direction for passing traffic
  9. upon any roadway within twenty feet of any intersecting way
  10. upon or in front of any private road or driveway without the consent of the owner of said road or driveway
  11. upon any roadway where parking is permitted unless both wheels on the right side of the vehicle are within twelve inches of the curb or edge of the roadway
  12. upon any roadway between the hours of 1:00am and 7:00am from December 1<sup>st</sup> to April 1<sup>st</sup> in any year
  13. upon any roadway at any time when there is in excess of four inches of snowfall
  14. upon any roadway where the parking of a vehicle will obstruct or hide from view any traffic control signal
  15. upon any roadway facing towards the direction of oncoming traffic
- D. No person shall stop, stand, or park any vehicle upon any roadway, or in a fire lane established by the authority of the Leicester Fire Department, or within a private way or alley open to public use or furnishing means of access for fire apparatus or other emergency equipment to any dwelling, building, or any other place that might require services of such fire apparatus or other emergency equipment in such a manner as to leave available less than fourteen feet for clear and unobstructed passage of vehicular traffic.
- E. No person shall stop, stand or park any vehicle upon or within any handicapped parking space designated as such within a private parking lot, which is open to the public, unless such vehicle bears proper registration plates or permit as authorized by the Massachusetts Registry of Motor Vehicles.

- F. No person shall park a commercial vehicle on a public street for more than one (1) hour between the hours of 8pm and 6am.

**V. Towing**

- A. The Chief of Police, such sergeants or police officer of higher rank as said officer or officials, may from time to time designate and are hereby authorized to remove or cause to be removed to some convenient place any vehicle parked or standing in violation of any of the provisions set forth in Article IV, Section C and D, of these regulations.
- B. The Superintendent of the Highway Department, or other employees as the Superintendent may designate, may remove or cause to be removed to some convenient place any vehicle parked or standing in violation of Article IV, Sections 12 and 13, subject to the following limitation: the vehicle found to be parked or standing in violation of these Sections must be hampering in-progress snow removal operations.
- C. The Chief of the Fire Department, the Fire Inspector, or any Officer of the Leicester Fire Department may remove or cause to be removed to some convenient place any vehicle parked or standing in violation of Article IV, Section D, subject to the following limitations: the vehicle found to be parked or standing in violation of this Section must be hampering fire apparatus that are responding to an alarm of fire. This limitation shall not apply to the Fire Inspector, who, in addition to Article IV, Section D, may also remove or cause to be removed vehicles found in violation of Article IV, Section C, Part 7, of these regulations.

**VI. Penalties – violation fines effective September 1, 2019 – amended by Select Board 8/19/19**

- A. Group A - \$10 each:
  - 01 – Sidewalk
  - 02 – More than 12” (inches) from curb
  - 03 – Facing the wrong direction
- B. Group B - \$20 each:
  - 04 – Within 20’ (feet) of intersecting way
  - 05 – Double parking
  - 06 – Blocking entrance to public building
  - 07 – On or under a bridge
  - 08 – Loading zone
  - 09 – Parked faced into traffic
  - 10 – Crosswalk
  - 11 – Channelized strip or island
  - 12 – Posted “no parking” zone

- 13 – Within an intersection
- 14 – Winter parking ban
- 15 – Parking after 4” of snowfall
- 16 – Interfering with snow removal
- 17 – Less than 10’ (feet) unobstructed lane

C. Group C - \$50 each:

- 18 – Posted “tow zone”<sup>6c</sup>
- 19 – Commercial vehicle parking violation
- 20 – Fire lane

D. Group D - \$100 each;

- 21 – Within 10’ (feet) of hydrant
- 22 – Bus stop

E. Group E - \$300 each:

- 23 – Handicapped violation

F. Failure to obey parking violation notice within twenty-one (21) days will be subject to all penalties as provided in Section 20A1/2 of Chapter 90 of the Mass. General Laws.

G. Tampering or destruction of parking violations notice will be subject to all penalties as provided in Section 20D of Chapter 90 of the Mass. General Laws.

**VII. Appeals Procedure**

A. Any person receiving a parking violation notice may request, in writing, within twenty-one (21) days, a hearing before the parking clerk as authorized in Section 20A1/2 of Chapter 90 of the Mass. General Laws.

**VIII. Massachusetts General Laws, Chapter 90, Section 20A1/2**

A. (refer to statute)

**IX. Massachusetts General Laws, Chapter 90, Section 20D**

A. (refer to statute)

**X. Massachusetts General Laws, Chapter 40, Section 22**

A. (refer to statute)

## **XI. Exemptions**

- A. These regulations shall not apply to any vehicle owned by the Commonwealth of Massachusetts or a political sub-division thereof, or by the United States or any instrumentality thereof, or registered by a member of a foreign diplomatic corps or by a foreign consular officer who is not a citizen of the United States and bearing a distinctive number plate or otherwise conspicuously marked and so owned or registered.

### **6.5 ROAD ACCEPTANCE**

*Adopted on 1/11/2010, revised on 1/21/2010, revised and adopted on 2/08/10 by Selectmen  
Adopted on 2/23/10 by Planning Board*

***The Select Board and Planning Board have adopted the following procedural guidelines regarding acceptance of private roads as public ways that received Subdivision Approval prior to September 20, 2006.***

***[Note: roads that received Subdivision Approval after September 20, 2006 shall follow the submittal and deadline requirements of the most current version of the Leicester Subdivision Rules and Regulations.]***

Road acceptance requests must be submitted Ninety (90) Days prior to a scheduled Town Meeting in order to be considered. All road and infrastructure construction work must be completed prior to the 90-day deadline.

1. At the time of submission of the road acceptance request, the following items must be submitted to the Select Board by the party requesting the road acceptance (herein, the Applicant):
  - a.) The following plans, which shall be separate plan sets, independently numbered, and identified by a Cover Sheet:
    - i.) Acceptance Plan. An Acceptance Plan of all street right-of-ways and easements shall be submitted. The Acceptance Plan shall be submitted on mylar sheets, with three copies printed on paper and a digital copy (in AutoCAD .dwg format or other format acceptable to the Planning Board), prepared in accordance with requirements for retracement survey and suitable for recording at the Worcester District Registry of Deeds pursuant to Massachusetts General Law Chapter 41, Section 81X .
    - ii.) As-Built Plan. A separate As-Built Plan shall be submitted of all roads proposed for acceptance. The As-Built plan shall be submitted in accordance with Section VI.P. of the Leicester Subdivision Rules & Regulations (See Attachment 1).

- b.) A written confirmation from the Town Engineer that the binder course was exposed to one winter season (Nov. 15 – April 30) prior to the application of the wearing course, and that the completed street and drainage and utility improvements have been exposed to the natural elements and weather conditions during one additional winter season (Nov. 15 - April 30) without substantial damage, or that damage, if incurred, has been repaired and certified by the Town Engineer. Items to be evaluated include, but are not limited to: pavement integrity, including sidewalks, curbing/berm, etc; permanent type grass on all seeded areas; establishment of vegetation on sloped areas; and functional integrity of all parts of the drainage system. Core samples certified by the Town Engineer of the roadway shall be required, unless the depth of pavement was inspected and certified by the Town Engineer during construction.
- c.) A written confirmation from the Leicester Town Engineer that installation of street trees and other plantings required by these Rules and Regulations and the approved subdivision plan have been completed satisfactorily, that such plantings have been exposed to one winter season (Nov. 15 - April 30) and that damaged plantings, if incurred, have been replaced to the satisfaction of the Town Engineer.
- d.) A certificate by a registered land surveyor indicating that all permanent monuments are in place and are accurately located.
- e.) Three (3) copies of a legal description by metes and bounds of each road and easement considered for acceptance by the Town.
- f.) Three (3) copies of the proposed deed conveying a public way easement in the street plus any appurtenant easements to the Town, and legal evidence that the fee in the street has not been conveyed to abutting lot owners or such other opinion of counsel that the developer/grantor has all legal authority to convey the easement to the Town.
- g.) Written certification from the applicable Water and/or Sewer District(s) that the final water and/or sewer system(s) has been approved by said District(s).

**Written certification from the Fire Department that the fire hydrants have been approved by the Fire Department**

- h.) Certificate of compliance with conditions imposed on the subdivision by the Conservation Commission under MGL Ch. 131, Section 40 and the Leicester Wetlands Bylaw, as applicable.
- i.) Copy of recorded deed(s) and other instruments for any common land or public open space, park or other such parcels contained within the subdivision.
- j.) written evidence from the Town Treasurer and Town Administrator that all property taxes, or other municipal-related cost responsibilities, owed to the Town for land contained within the subdivision owned by the applicant or by the original developer or successors in interest have been paid to the Town.
- k.) A certified abutters list
- m.) Following receipt of a road acceptance request, the Select Board will refer the application to the Planning Board for review and comment.

n.) The Select Board will hold a road acceptance hearing after the expiration of the required 45-day Planning Board comment period or sooner on receipt of comment. Any minor outstanding non-construction items (e.g. street sweeping) shall be addressed at least seven (7) days) prior to the date of the public hearing. Applicants for road acceptance are responsible for the cost of abutter notification and legal posting requirements. Applicant shall be responsible for posting the As Built Plan with the Town Clerk at least seven (7) calendar days before the Town Meeting at which acceptance of the way is to be considered.

o.) Upon favorable action by the Town Meeting, the Applicant shall provide the Select Board with duly executed easement deeds, the plans as referenced above and the appropriate recording fees for the plan and easements and any other instruments deemed necessary by Town Counsel to complete the conversion of the way to a public way.

#### Attachment 1

#### Section VI.P, Leicester Subdivision Rules & Regulations

#### P. AS-BUILT PLANS:

Upon completion of construction, and before release of the performance guarantee (See Section IV.), the sub-divider shall have prepared and submit on mylar, with three paper copies and a digital copy (in AutoCad.dwg format or other format acceptable to the Planning Board), As-Built Plans at 1" = 40', which shall indicate the location of the following as built:

1. Street right-of-way layout and property sidelines of abutting parcels.
2. Edge of pavement, curbs and berm.
3. Underground utilities, including sewers, water mains, drainage culverts. All manholes, valves, services, or other appurtenances to the utility shall be shown.
4. Detention or drainage facilities which serve the roadway proposed for acceptance, including grading, outlet or inlet control structures, rip-rap, or other features of the detention area.
5. Mainline underground cable television, electric conduit and telephone trench. Trench locations may be shown schematically.
6. Appropriate details of construction, showing the technical manner of construction
7. Monuments

The accuracy of such As-Built plan shall be certified by a Registered Land Surveyor. In addition, a Professional Civil Engineer shall certify that all construction was executed in conformance with the subdivision regulations and with all requirements agreed upon as a condition to plan approval. The developer shall be responsible for the repair of this work for a period of one (1) year following original approval of same.

### **7.0 LICENSING**

#### **7.1 LOCAL LICENSING AUTHORITY RULES and REGULATIONS – SALE OF ALCOHOLIC BEVERAGES**

*Adopted on October 15, 1990*

The sale of alcohol is governed by the provisions of Mass. State Law, Chapter 138 of the Acts of 1933; any amendments and any rules or regulations of the Select Board (BOS) and the Alcoholic Beverages Control Commission (ABCC) now or hereinafter in force.

- 1) Hours for licensed establishments are specified on individual licenses. Local Licensing Authorities' hours of operation may not exceed State regulations. Sale of alcoholic beverages will cease fifteen (15) minutes prior to the closing time so stated on the license.
- 2) No liquor license can be transferred or surrendered without authority of the BOS. Stock in a corporation shall not be transferred or pledged without permission from the BOS.
- 3) All interior renovations must be approved and granted by the BOS.
- 4) No license shall be issued to a person who is not a citizen.
- 5) All licenses must be posted under glass (or other clear protective service) on the premises specified in a public area so that same may be easily observed.
- 6) Records of all alcoholic beverages sold and purchased must be kept available when called for by the BOS or its agents.
- 7) Sales to persons under twenty-one (21) years of age are punishable by fine and/or by imprisonment. (see Chapter 138, Section 34)
- 8) Each corporation licensee must appoint a manager satisfactory to the BOS by a written vote of their Board of Directors, giving such manager full authority and control of the premises; the BOS must be notified immediately of any vacancy of the manager's position. (see Chapter 138, Section 26)
- 9) The licensed premises shall be subject to inspection by the Police, the ABCC, the BOS and their authorized agents, the Health Department and Building Department to ascertain the manner in which the licensee conducts his business.
- 10) No alcoholic beverages shall be sold or kept for sale on premises not specified on license.
- 11) The use of booths, stalls or enclosures of any description whatever which are so closed by curtains, screens or other devices that the person therein cannot be seen at all times by person in such restaurants, taverns or place, unless such enclosure is approved by the Select Board and the use of barred or barricade entrances or exits by the authorized agents of the Select Board or other Law Enforcement Body is a violation of Chapter 272, Section 25. Measurements of new booths to be 40" or less in height.
- 12) No alcoholic beverages shall be sold or delivered to a person who is intoxicated or known to have been intoxicated within six months. (Chapter 138, section 69)
- 13) Manager of all licensed liquor establishments will be held responsible for all violations or infractions of the law occurring on the premises, whether present or not. The licensee is responsible for any disorder, disturbance or illegality of any kind taking place on licensed premises whether present or not.
- 14) Premises must at all times be kept clean, neat and sanitary in accordance with the Health Department.
- 15) All signs and advertisements must be kept neat and dignified. All admissions or cover charges must be posted in letters not under one inch (1") in height on outside of premises. (Chapter 140, Section 183D)
- 16) Restaurants, general on-premise, and clubs are prohibited from purchasing alcoholic beverages, other than malt and wine, in bottles or original containers holding less than 1/5 of a gallon or .75 liters. Restaurant, general on-premise, hotels and clubs are prohibited from

making sales by bottles or package to be taken away from the premises. No alcoholic beverages to be consumed except in areas within the premises specified on the license.

- 17) Club doors shall be kept closed and locked. Entrance to be by key, card, or ringing of bell by member. Membership list to be available at all times. Admittance to members and to guests introduced by such members and to no others.
- 18) No gambling permitted on the premises. Any use of coin operated amusement devices for gambling purposes shall result in suspension and/or revocation of both the alcoholic beverages license as well as the amusement device license. No one under the age of twenty-one (21) shall be permitted to use any coin operated amusement device in any part of the premises licensed for alcoholic beverages.
- 19) Window obstructions and interior lighting: Restaurants and general on-premise shall be governed by the regulation provided in Section 1 of Chapter 138 and all amendments thereto now and in the future. Restaurants and general on-premise must provide a clear view of interior. No window facing a public way shall be obstructed by any screen or other object extending more than five feet above the sidewalk level. Correct lighting must meet with License Commission approval.
- 20) Entertainment within licensed premises may be licensed as provided by Mass. General Laws and Town Bylaws. Application for such licenses may be issued according to the procedure of Mass. General Laws, Chapter 140, Section 183A. The Select Board may revoke or suspend a granted license pursuant to the provisions of this Rule after written notice to the Licensee and a hearing thereon, and upon finding that conditions exist upon or about the licensed premises that would have justified denial of the original application for such license.
- 21) Nude dancing is prohibited (Chapter 138, Section 12B)
- 22) No one under eighteen years of age may be employed in the direct handling and selling of alcoholic beverages or alcohol. No clearing of empty glasses used for alcoholic beverages by person under eighteen years of age allowed.
- 23) No person, firm, corporation, association or other combination of persons directly or indirectly, or through any agent, employee, stockholder, officer or other person or any subsidiary whatsoever, licensed under the provisions of Sections 18 or 19 shall be granted a license under Section 12 (or 15).
- 24) Separate toilet facilities for men and women patrons required. Separate and complete facilities for employees of the establishment.
- 25) Licenses issued under Chapter 138, Section 14A shall be issued only upon proof of non-profit status of applicants.

<p><b>THE LICENSE IS SUBJECT TO SUSPENSION OR REVOCATION FOR ANY VIOLATION OF ITS CONDITIONS, OR VIOLATION OF ANY LAW OF THE COMMONWEALTH OF MASS, OR ANY STATE OR LOCAL LAWS RELATED TO LIQUOR LICENSE PRIVILEGES.</b></p>
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26) **Training requirements for license holders & employees (Amended October 17, 1994)**

- A. Any licensee holding an All Alcohol License, Beer & Wine License or Seasonal License shall participate in a program designed to train employees who engage in either package sale or pouring methods of observation and detection, to avoid selling or serving to intoxicated persons and/or minors. This program must be based on the type of license issued.

- B. Listed below are programs that may be available, which meet the requirements of this policy:
- Training for Intervention Procedures by Servers of Alcohol (TIPS)
  - Any insurance liability approved and qualified program offered by a certified trainer
  - Techniques of Alcohol Management (TAM) sponsored by the Massachusetts Package Store Association (approved for off-premise sale license only)
- C. All personnel shall be required to participate in a training program based on the type of license issued. Establishments will have six (6) months to comply with this policy from the date of inception by having one-hundred percent (100%) of their employees trained and certified. After that time, new employees of any establishment will have sixty (60) days from the date of employment to complete one of the training programs.
- D. All establishments must maintain during operating hours in an accessible place a roster or certification of trained personnel. Rosters will be updated as warranted and kept current. Any changes will be forwarded to the Licensing Authority forthwith. An updated roster shall be submitted with the annual application for renewal of the license. The roster shall include:
1. Employee name
  2. Type of training
  3. Date valid
  4. Date of expiration
  5. Date of hire
- E. All personnel shall be required to be recertified once every three (3) years through an approved program.
- F. Failure to comply with this policy may result in the revocation or non-renewal of license.

## **7.2 ONE DAY SPECIAL WINE AND MALT LICENSE REQUIREMENTS**

The applicant for a One-Day Permit must provide a written request to the local licensing authority, the Leicester Select Board, which includes the following information:

- Person to be named as Manager of function with contact phone number
- Name and address of Licensee or facility with phone number
- SS# of the Manager (or) FIN of the facility
- Name and address of location where License will be held
- Description of licensed premises, to include the area where wine & malt will be served and consumed (ie: 20 X 50' function room and attached lounge 8 X 10')
- Date(s) of function
- Hours of operation for which License is requested
- Whether activity or enterprise is for profit, or for non-profit
- Certificate of Insurance naming the Town of Leicester as an additional insured, with proof of the following insurance coverage:
  - General Liability - \$1,000,000/\$2,000,000 limits
  - Excess Liability - \$1,000,000
  - Workers Comp - \$1,000,000
  - Liquor Liability - \$250,000/\$500,000 bodily injury or death or accident resulting in injury or death

Upon approval of the One-Day Special Permit and receipt of all documentation, a \$50 fee per day made payable to the Town of Leicester must be submitted to the Office of the Select Board prior to release of said Special License.

### **7.3 ONE-DAY SPECIAL WINE and MALT LICENSE APPEARANCE WAIVER**

Non-profit organizations that wish to provide wine or malt for guests either for sale or free are required to apply for a license from the local licensing authority, the Leicester Select Board. In acknowledgement that some organizations have yearly events, consistently provide timely and complete application packets and have no current history of problems with their neighbors or public safety, this policy waives the requirement that the applicant attend the Selectmen’s meeting where the approval of the license is on the agenda.

If the applicant meets ALL of the following criteria then appearing before the Selectmen in person will be waived:

- The application packet is received at least one month prior to the event

- The application packet is complete

- Everyone identified in the packet are the same as the previous application; this includes the manager of the function, name of Licensee, Manager (or) FIN of the facility, serve safe person. This is not the applicant’s first time applying for a license for the event (ie. wedding, festival, open house, etc.)

- The applicant has appeared before the board for an application for the same type event within three years.

- The police chief has no issues with the organization based on past history of similar events.

- The Town Administrator has verified there have been no complaints from neighbors from previous events.

Any member of the board reserves the right to ask an applicant to appear before the board prior to issuing any One-Day Wine & Malt License.

### **7.4 TOWN OF LEICESTER CARRY-IN ALCOHOLIC BEVERAGES (BYOB) POLICY**

*Adopted on August 27, 2018*

The establishment requesting to be allowed to serve alcohol under the “BYOB” provisions agrees to abide by all legal standards to ensure safe and proper service to patrons in accordance with all the guidelines and laws set forth by MA General Laws; the Alcoholic Beverages Control Commission and the Rules and Regulations of the Town of Leicester governing establishments pursuant to MA General Laws Chapter 138.

#### **Requirements for submission of an application for a Carry-In (BYOB) Permit:**

1. All establishments that wish to offer carry-in of alcoholic beverages must apply for a permit through the Select Board, the local licensing authority. Any establishment not granted a permit is hereby prohibited from offering carry-in (BYOB).
2. Only establishments which do not have a Section 12 Alcoholic Beverages permit may apply for a Carry-In (BYOB) Permit.
3. Only establishments which hold a Common Victualer License in the Town of Leicester may apply for a Carry-In (BYOB) Permit.
4. The permit authorizes the allowance of Wine & Malt Beverages only to be carried in.
5. The establishment applying for a Carry-In (BYOB) Permit must provide proof that staff is TIPS trained.

**Restrictions of the Carry-In Permit:**

1. Patrons may carry in Wine & Malt Beverages ONLY.
2. Restaurant staff shall not serve nor handle any Carry-In alcoholic beverages; including opening bottles, pouring beverages or refrigerating/storing beverages. The establishment may, however, provide the glass for the alcoholic beverage. The establishment is responsible for training employees in the correct procedures pertaining to this policy.
3. Alcoholic beverages are to be consumed inside the premises and disposed of before leaving.
4. Patrons cannot leave the premises with an open container of alcohol. A patron who wishes to remove their unfinished bottle of wine from the premises must have the premises ensure that the bottle is securely resealed and placed in a one-time tamper proof transparent bag as allowed under MGL Chapter 138 section 12. The secured bottle must then only be removed from the unlicensed premises by the person who carried in the beverage. The establishment can provide the one-time tamper proof transparent bag.
5. No alcoholic beverages are to be consumed by any person under the age of 21 in violation of MA General Laws, Chapter 138, Section 34. It will be the responsibility of the establishment to ensure that patrons who consume alcoholic beverages on the premises are 21 years of age.
6. Alcoholic beverages are not to be consumed on the premises by an intoxicated person.
7. The establishment cannot charge the consumer either directly or indirectly to consume alcoholic beverages on the premises by including a service fee, glass fee, table fee, corking fee or by a fee called any other name.
8. No alcohol shall be stored on premise at any time.
9. The Carry-In (BYOB) Permit will be in force only until such time as the Alcoholic Beverages Control Commission (ABCC) approves the establishment for a Section 12 Alcoholic Beverages Permit.
10. Upon notice by the ABCC of disapproval of the issuance of a Section 12, Alcoholic Beverages Permit, all Carry-In (BYOB) activity is suspended.

**Violations of the Carry-In Permit:**

1. Any establishment, that in the conduct of business either directly or through its agent, causes or permits any violations of state or local statutes or regulations under the “Carry-In” (Bring Your Own Bottle) Policy or permits any other illegalities shall be subject to a hearing on the alleged violation for possible modification, suspension or revocation of their

Common Victualer license before the Select Board, the Local Licensing Authority for the Town of Leicester.

The Select Board of the Town of Leicester reserves the right to modify this policy at any time.

## **8.0 BOARDS AND COMMITTEES**

### **8.1 REMOTE PARTICIPATION POLICY**

*Adopted January 8, 2017*

#### **Purpose**

This policy sets forth guidelines for remote participation by boards and committees of the Town, hereinafter referred to as public bodies, pursuant to the rules set forth by the Commonwealth of Massachusetts, MGL c.30A, §§ 18 through 25 hereinafter referred to as 940 CMR 29.10, the Open Meeting Law or OML. The goal of this policy is to promote greater participation in Town government, while ensuring that said remote participation does not violate the rules and requirements of the OML.

#### **Preamble**

Board and committee members are encouraged to physically attend meetings whenever possible. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law, which is promoting transparency with regard to deliberations and decisions on which public policy is based.

Remote participation may be permitted subject to the following procedures and restrictions.

#### **Adoption/Revocation of Remote Participation**

The Select Board, must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that authorization or vote applying to all subsequent meetings of all local public bodies. The Select Board may, by simple majority, vote to revoke permission for public bodies to utilize remote participation at any time.

#### **Minimum Requirements for Remote Participation**

- (a) Members of a public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other.
- (b) A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location.
- (c) Members of public bodies who participate remotely may vote and shall not be deemed absent.

#### **Permissible Reason for Remote Participation**

A member of a public body shall be permitted to participate remotely in a meeting only if physical attendance would be unreasonably difficult.

### **Technology**

(a) The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted. Accommodations shall be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.

- i. telephone, internet, or satellite enabled audio or video conferencing;
- ii. any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.

(b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.

(c) The chair or, in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged, wherever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location.

If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.

### **Procedures for Remote Participation**

(a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.

(b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely. This information shall also be recorded in the meeting minutes.

(c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.

(d) A member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the public body.

(e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants, in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, § 22.

### **Further Restriction by Adopting Authority**

The Select Board may amend this policy, or adopt additional rules and/or regulations that prohibit or further restrict the use of remote participation by public bodies, provided those policies, rules or regulations do not violate state or federal law.

### **Remedy for Violation**

If the Attorney General determines, after investigation, that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

## **8.2 CHANGE ORDER POLICY**

### **Purpose**

This policy sets forth guidelines for approval of change orders related to design or construction contracts executed pursuant to MGL c.30B, MGL c.149, or MGL c. 30-39M. The goal of this policy is to promote greater transparency in the change order practice, while allowing construction to proceed without delay.

### **Authority**

The Select Board, as chief executive officers for the Town, are to approve all change orders of any design or construction project, whether prospective or after execution.

### **Procedure**

**Emergencies or Other Required Approvals** - The Town Administrator shall have the authority to approve change orders of any particular value associated with emergency work, or site or building conditions that require immediate remediation in order for project work to continue in a timely fashion. Change orders in excess of \$25,000, associated with this type of work, will not be considered approved without the signed approval of the chair of the project's building committee. All other change orders will be voted and approved by the project's building committee in the course of its regular business.

**Design or Project Scope changes** – All significant design and scope changes will be brought forward for approval by the Select Board. Not included as part of the definition of “Significant” is minor design or scope changes that are within the project budget.

These change orders will be approved by the project’s building committee before being presented to the Board. In the case that the cost of change order is not known at the time it is to be presented to the Select Board, an estimate of the potential cost will be presented for approval.

**Approval** - All change orders generated under either situation listed above will be brought to the Select Board for discussion and approval, be it prospective or retrospective.

### **Credits**

It is understood that the Select Board need not accept or approve any change order that is a credit to the project.

### **Reporting**

The Town Administrator, or his designee, shall provide the Select Board with a project cost summary for each approved project on a monthly basis.