TOWN OF MIDDLEBOROUGH RULES AND REGULATIONS FOR MOBILE HOME PARK
ACCOMMODATIONS, RENTS, AND EVICTIONS

In accordance with Chapter 703 of the Acts of 1985, after hearing in accordance with Mass. Gen. Laws, Chapter 30A, Sec. 2, the Rent Board hereby adopts the following rules and regulations for the purpose of regulating rents, minimum standards for the use or occupancy of mobile home park accommodations, and evictions with respect to mobile home park accommodations in mobile home parks within the Town of Middleborough.

Section 1 – Definitions:

A. **Board:** The Rent Board is the Town of Middleborough Board of Selectmen established by a vote under Article 5 of the warrant for the Middleborough Town Meeting of March 10, 1986.

B. **Capital Improvements:** Any substantial rehabilitation, addition or improvements which appreciably add to the value of the property or prolongs its life or both, but not including ordinary repairs and maintenance, provided such rehabilitation, addition or improvements shall cost at least $5,000 and have a useful life of at least five (5) years.

C. **Mobile Home:** A structure, built in conformance to the National Manufactured Home Construction and Safety Standards which is transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities , and includes the plumbing, heating, air conditioning, and electrical systems contained therein. A mobile home is also known as a "manufactured home" as defined in General Laws Chapter 140, Section 32Q.

D. **Mobile Home Park:** A lot or tract of land used for the site of three or more mobile homes occupied for dwelling purpose and licensed pursuant to General Laws Chapter 140, Section 32B. A mobile home park is also known as a manufactured housing community as defined in General Laws Chapter 140, Section 32F.

E. **Mobile Home Park Accommodations:**

1. The lot or space in a Mobile Home Park upon which is located a Mobile Home not owned by the holder of the license of said park and used and occupied as a one family dwelling unit or available for such use and occupancy.

2. A Mobile Home in a Mobile Home Park owned by the licensee of a mobile home park and used and occupied by a Tenant as a one family dwelling unit or available for such use and occupancy.

F. **Housing Services:** Services or facilities provided by an Owner or required by law or by the terms of a rental housing agreement to be provided by an Owner to a Tenant in connection with the use and occupancy of any mobile home park accommodation, which may include without limitation: Services, furniture, furnishings and equipment, repairs, decorating and maintenance, provisions of light, heat, hot water, cold water, telephone, kitchen, bath and laundry facilities and privileges, use of yard and other common areas, janitor service, refuse removal, parking facilities, lawn water sprinkler services, vehicle or equipment storage, and any other benefit, privileges or facility connected with the use or occupancy of any mobile home park accommodations.

G. **Owner:** The individual who holds a license, or any party who is required to hold a license for a mobile home park (manufactured housing community) under Sections 32A and 32B of Chapter 140 granted pursuant to Mass. Gen. Laws, Chapter 140, Section 32B, to conduct, control, manage or operate directly or indirectly a mobile home park in any manner including, but not limited to, a partnership, corporation or trust.

H. **Operating and maintenance expenses:** The reasonable expenses of operating and maintaining a mobile home park including, but not limited to, maintenance, repair, management fee, real estate broker's commission to someone other than the Owner, insurance, utilities not included within the rent, but not including mortgage interest and amortization or an allowance for obsolescence or depreciation.

I. **Rent:** The consideration, including any bonus, benefit, gratuity or charge contingent or otherwise, demanded or received for or in connection with the use or occupancy of a mobile home park accommodation or for housing services or for the transfer of a lease of a mobile home park accommodation, inclusive of the license fee collected by the Owner and paid to the Town under General Laws Chapter 140, Section 32G; excluding therefrom, however, the consideration paid by a shareholder of a Cooperative Housing Corporation organized pursuant to General Laws Chapter 157B for a share of said corporation, a propriety lease, and any maintenance fees associated therewith. Rent shall include fees and charges for services assessed by the owner to a Tenant by an Owner, but not fees charged for discretionary or optional activities and/or services which may be offered for recreational activities, conveniences, etc.

J. **Rental Housing Agreement:** An agreement between an Owner and a Tenant for use and occupancy of a mobile home park accommodation and/or housing services, specifically excluding, however, any agreement for occupancy of a mobile home park accommodation between a Cooperative Housing Corporation as a defined in Massachusetts General Laws Chapter 157B and a shareholder of said corporation.

K. Tenant: A tenant, lessee, or other person entitled under the terms of a rental housing agreement with the Owner for the use and occupancy of any mobile home park accommodation; excepting for this definition, however, any person who occupies a mobile home park accommodation pursuant to a proprietary lease as defined in General Laws Chapter 157B at Section 4, as a shareholder of a Chapter 157B Cooperative Housing Corporation.

L. Fair Market Value: Fair Market Value of property shall mean the current assessed valuation of the property or other valuation that the Board on basis of evidence presented before it considers more appropriate to the circumstances of the case before it. The Board shall evaluate all evidence presented by any party regarding the fair market value.

M. Fair Net Operating Income: (1) Fair net operating income for a Mobile Home Park shall be that income which will yield, in the discretion of the Board, a reasonable return to the Owner of a Mobile Home Park, after all reasonable operating expenses. In consideration of whether the return is reasonable, the Board may consider any relevant evidence and standards, including, but not limited to: average returns for other similarly situated Parks, any operating expenses or debt service, any projected capital improvements, or any other factor that may be presented. The Board shall evaluate all evidence presented by any party regarding the fair net operating income.

(2) Fair net operating income for a Resident Owned Park shall be that income which will enable the Owner of the Park to pay or provide with respect to the Park for all operating expenses, capital expenses, contractual debt service and contractually mandated or shareholder/member approved reserves for capital expenses and operating expenses.

N. Resident Owned Park: A Mobile Home Park that is owned by a corporation or association where the (a) shareholders or members are individuals owning homes in the park and (b) over 51% of the owner of homes are shareholders or member of the park Owner.

Section 2 – Maximum Rent:

A. The maximum rent for mobile home park accommodations which a park owner may charge a tenant shall be as follows:

1. For mobile homes which are in existence, occupied by a tenant or occupant and subject to a rental housing agreement on the date these Rules and Regulations are adopted, the maximum rent shall be the rent set forth in Addendum A.

2. For new mobile homes which have not been previously sold by the park owner and are not occupied by a tenant or occupant under a rental housing agreement on the dates these Rules and Regulations are adopted, the maximum rent shall be the rent set by a rental housing agreement between the park owner and the tenant or occupant of the home. The maximum rent may be higher or lower than the maximum rent for other mobile homes in the park when the rental housing agreement is made.

3. For mobile homes which were previously sold by the park owner and/or occupied by a tenant or occupant under a rental housing agreement which is no longer in effect, the maximum rent shall be the rent set by a new rental housing agreement between the park owner and the new tenant or occupant of the home. The maximum rent shall not exceed the following:

   a) If the park owner is offering new mobile homes for sale at the time the new rental housing agreement is made, the maximum rent shall not exceed the rent then being offered to purchasers of new mobile homes.

   b) If the park owner is not offering new mobile homes for sale at the time the new rental housing agreement is made, the rent shall not exceed the highest rent then being paid by other tenants/occupants in the park.

4. Maximum rent for mobile home park accommodations may be adjusted from time to time by the Board pursuant to Section 4 and Section 5 of these Rules and Regulations. Maximum rent for mobile home park accommodations may also be adjusted under a rental housing agreement which provides for a rent adjustment based on application of a yearly consumer price index factor as described in Section 4-D.

B. No increase in maximum rent for a mobile home accommodation shall be effective unless:

1. The increase is approved by the Board pursuant to Section 4 and Section 5.

2. The increase is based on a yearly consumer price index factor approved by the Board; or

3. The increase is provided for by a yearly consumer price index factor under a rental housing agreement.

Section 3 – Registration:

The Board shall require registration of all mobile home park accommodations on forms approved by it within ninety (90) days of the approval of these regulations and annually on June 30th. A copy of registration shall be provided to tenants of the mobile home park upon their written request. Any new or additional accommodation must be registered prior to occupancy thereof. No petition for an upward adjustment of maximum rent shall be accepted by the Board until all statements and information required to be filed under this Section 3 have been filed and any such petition prior to such filing shall not be entertained by the Board. The Board shall require the following:

1. The legal name, address and business telephone of the owner;
2. The identification of each unit of mobile home park accommodations;
3. The legal name, address and business telephone of the manager;
4. The identification of each Tenant in the mobile home park, including the date the Rental Housing Agreement began, the date on which it terminates, or whether it is a tenancy at will, and the amount of rent due each month;
5. The lot type, if necessary, to distinguish different types of lots for which the owner charges different rents, including the description of the basis(es) for charging the rent differential;
6. A copy of all Rental Housing Agreements (or a copy of a representative Rental Housing Agreement which is substantially the same for all mobile home park accommodations involved in the registration) and any rules and regulations applicable to each Rental Housing Agreement. The owner shall update the registration annually by June 30th of each year.

The registration forms shall be signed by the Owner under the penalties of perjury.

Section 4 – Adjustment of maximum rent:

A. The Board shall, by order or regulation as provided in Section 5, make such individual or general adjustments, either upward or downward, of the maximum rent established by Section 2 for any mobile home park accommodations as may be necessary to remove hardships or correct inequities for both Owner and Tenant, and make adjustments for capital improvements / equipment and in so doing shall observe the principle of maintaining rents at levels which will yield to Owners a fair net operating income for such mobile home park accommodations.

B. The Board by regulation may establish further standards and rules consistent with the foregoing. The Board may promulgate a schedule of standard rental increases or decreases for improvement or deterioration in specific services and facilities.

C. Notwithstanding any other provision of this section, the Board may refuse to grant an upward adjustment of maximum rent if it determines that the affected mobile home park accommodation does not comply with the State Sanitary Code or the Town of Middleborough codes or by-laws or any other applicable code, ordinance or state law regulating the conditions of housing accommodations, and if it determines that such lack of compliance is due to the failure of the Owner to provide normal and adequate repairs and maintenance. The Board may refuse to make a downward adjustment of maximum rent if it determines that the Tenant is more than thirty (30) days in arrears in payment of rent unless such arrearage is due to a withholding of rent under the provisions of Section 8A of Chapter 239 of the General Laws or if the Tenant is in substantial violation of any enforceable rule of the mobile home park or if the Tenant is in violation of any laws or ordinances which protect the health and safety of other mobile home park residents.

D. In setting or adjusting rent for mobile home park accommodations under Section 4 and Section 5, the Board may approve yearly adjustments of the rent based on application of a consumer price index factor as described in this subsection. A rental housing agreement may provide for yearly adjustments of the rent based on application of a consumer price index factor as described in this subsection. The yearly consumer price index factor authorized by these Rules and Regulations shall be based on the Consumer Price Index for All Urban Consumers (CPI-U): U.S. City Average, All Items (unadjusted) (1982-84=100) published by the Bureau of Labor Statistics, U.S. Department of Labor, or if such index is no longer published, such other or successor index which is approved by the Board. Yearly adjustments in rent based on a consumer price index factor shall be calculated by determining the increase or decrease in the index by comparing the current monthly index ("current CPI") to the monthly index for the same month one (1) year prior to the month when the yearly adjustment is being determined ("prior CPI"). The difference between the current CPI and the prior CPI shall be divided by the prior CPI to derive a percentage increase or decrease. The percentage increase or decrease shall then be multiplied by the existing rent to determine the amount of the rent increase or decrease. For example, if the current CPI is 3% more than the prior CPI, the existing rent will increase by 3%.

E. The Board in adjusting maximum rent for a mobile home park may equalize rent for all substantially similar or comparable mobile home park accommodations in those cases where the maximum rent which is to be adjusted is not equalized before adjustment.

Section 5 – Rent Adjustment Proceedings:

A. Individual Adjustment of Maximum Rent. The Board shall consider an adjustment of rent for an individual mobile home park accommodation upon receipt of a petition for adjustment filed by the Owner or Tenant of such mobile home park accommodation or upon its own initiative. Such petition shall be made on a form

approved by the Board. The Board shall notify the Owner, if the petition was filed by the Tenant, or the Tenant, if the petition was filed by the Owner, of the receipt of such petition and of the right of either party to request a hearing in writing within thirty (30) calendar days of receipt of such notice or the Board may schedule a hearing on its own initiative. If a hearing is timely requested by either party or if the action is undertaken on the initiative of the Board, notice of the time and place of the hearing shall be furnished to the Owner and Tenant and the hearing shall be conducted before the Board. The Board may consolidate petitions and actions relating to mobile home park accommodations in the same mobile home park, and all such petitions and actions may be considered in a single hearing.

B. General Adjustment of Maximum Rent by Regulation. Upon application or petition by an Owner or Tenant, or upon its own initiative, the Board may make a general adjustment by percentage or otherwise of the rental levels for mobile home park accommodations subject to such conditions, if any, as the Board shall determine. Prior to making such adjustment, a public hearing shall be held before the Board. Notice of the time, place, and purpose of such hearings shall be published at least once in a newspaper having a general circulation in the Town, and posted in the Town Hall, both not less than seven (7) days prior to such hearings.

C. Limitation of Petition for Individual Adjustment. Notwithstanding any other provision of this section, the Board may, without holding a hearing, refuse to adjust the maximum rent for an individual mobile home park accommodation and may dismiss any petition for adjustment if a decision has been made with regard to the maximum rent for such mobile home park accommodation within twelve (12) months or if the Board finds that the petition for adjustment is filed for purposes of harassment or for other purpose not intended herein.

D. Hearing, conducted pursuant to Section 5 above shall be conducted as adjudicatory hearings in accordance with the provision of Massachusetts General Laws Chapter 30A, Sections 10, 11 and 12. Rules and procedures for the conduct of said hearings shall be those rules and regulations outlined in 801 CMR 1.00 et seq. for the conduct of adjudicatory hearings before State administrative agencies, which the Board hereby adopts and shall implement as its own rules and regulations for the conduct of adjudicatory proceedings. Within thirty (30) days of the filing of a petition, the Board shall meet and determine whether to proceed on such petition pursuant to the formal or informal rules as outlined in 801 CMR 1.00 et seq. or under other procedures and shall indicate its determination as to which rules and procedures shall be followed in its notice of agency action to affected parties, and in the public notice of said hearing.

E. All decisions made by the Board under this Section shall be rendered in writing within 30 (thirty) days from the date the Board closes the public hearing on the petition.

F. The Board shall levy a filing fee upon any and all parties that make application to request a rent adjustment for a mobile home accommodation. The filing fee for any individual rent adjustment requested pursuant to Section 5 of these rules and regulations shall be $50.00. The filing fee for a general rent adjustment pursuant to Section 5B of these regulations shall be $300.00 for which a general adjustment is requested. The applicant for a general rent adjustment shall also pay the sum of $100.00 to cover advertising costs. Filing fees and advertising costs shall be paid by check payable to the Town of Middleborough at the time of the filing of a petition.

Section 6 – Incorporation of Administrative Procedure Act and 801 CMR 1.00

The provisions of Massachusetts General Law Chapter 30A including those provisions giving agencies the power to issue, vacate, modify, and enforce subpoenas shall be applicable to the Board as if said Board were an agency of the Commonwealth, as well as, those provisions relating to judicial review of an agency order. The rules and regulations at 801 CMR 1.00 et seq. as adopted by the Secretary of Administration for Massachusetts for application and use by state agencies for the conduct of both formal and informal adjudicator hearings shall be the rules and regulations and procedures adopted for use before The Board for the hearing of all petitions for rent adjustment, and for eviction, unless at the time of the filing of the petitions and before the notice of agency action shall be published, the Board shall by vote determine to use an alternative procedure which nonetheless shall be consistent with the provisions of Massachusetts General Laws Chapter 30A, Section 10, 11, and 12.

Section 7 – Capital Improvements and Capital Equipment Rent Adjustment

A. Pre-Approval

A park owner or management may file a petition for the purpose of obtaining pre-approval from the Board for an increase in maximum rent to offset the cost of a substantial and necessary capital improvement or purchase of capital equipment. The procedures set forth in Section 5 above for rent adjustment petitions shall be used for capital improvement or capital equipment petitions. The park Owner or Management shall file with the petition for pre-approval any and all information relating to the cost of and need for financing the capital improvement or capital equipment purchase. Any pre-approval given by the Board shall also be deemed an approval of such financing. The Board shall consider whether the improvement is necessary and the reasonableness of the cost of the improvement in considering a rent increase to support the cost of the improvement. The rent increase shall be conditioned upon satisfactory and final approval of the improvement.

B. Final – Approval

Upon completion of capital improvement or purchase of capital equipment for which a park owner or management has received pre-approval, the Board may give final approval of the increase in maximum rent(s). Final approval shall only be given by the Board upon submission of satisfactory evidence by the park owner or management that the capital improvement has been satisfactorily completed or the capital equipment has been purchased and that the costs incurred for such

improvement are equal to or exceed the cost upon which pre-approval was given. In the event that such costs are less than the original estimated costs, the maximum rent shall be increased only to the extent that it reflects such costs. The Board shall hold a public hearing upon submission by the park owner or management of evidence of completion of the capital improvement or purchase of equipment. A capital improvement/capital equipment rent increase approved by the Board shall be identified and separated from the remainder of the rent charge and eliminated from the rent charge when the approved rent increase has produced income equal to the cost of the improvement or equipment including the cost of debt service incurred in connection with such improvement or equipment.

Section 8 – Conference of Jurisdiction

The Wareham Division of the District Court Department shall have original jurisdiction concurrently with the Superior Court, of all petitions for review brought pursuant to Section 14 of Chapter 30A of the General Laws. The Superior Court shall have jurisdiction to enforce Chapter 703 of the Acts of 1985 and may restrain violations thereof.

Section 9 – Information to be supplied in Connection with Petitions for Adjustment:

Upon receipt by the Board of a petition for adjustment of maximum rent by an Owner, the Board may request documents, which information may include but not be limited to:

A. Reviewed Financial statements certified by a CPA for the three (3) years preceding the year of the filing of the petition; such statements should clearly set forth income, sources of income, and a detailed breakdown of operating expenses.
B. An interim updated financial statement showing income and operating expenses for the current year.
C. A complete and current balance sheet.
D. A statement of the number of employees, job titles and job descriptions of any employee whose employment relates to the affected mobile home park.
E. Current capital improvements and dates of completion.
F. Proposed capital improvements and proposed dates of completion.
G. Proposed budget for the year in which the increase is to be effective.
H. A statement of the rate of return sought and the assessed valuation of the property.

In any case where the Owner seeking an upward adjustment in rent owns and operates more than one mobile home park, all financial documentation submitted shall pertain solely to the operation of the mobile home park for which the upward adjustment is sought.

Upon receipt by the Board of a petition for a downward adjustment of maximum rent, the Board may request documents which information may include but not be limited to:

A. Written reason for such downward adjustment; and
B. Any evidence financial or otherwise, supporting such downward adjustment.

Section 10 – Evictions:

A. Pursuant to the provisions of General Laws, Chapter 140, Section 32J, as amended, no Owner shall terminate any lease or tenancy and/or bring an action to recover possession of a mobile home park accommodation unless;

1. the Tenant has failed to pay the rent to which the Owner is entitled; or
2. the Tenant is in substantial violation of an enforceable rule of the mobile home park; or
3. the Tenant is in violation of a law or ordinance which protects the health or safety of other mobile home park residents; or
4. there is a discontinuance in good faith by the Owner of the use of part or all of the land owned and licensed as a mobile home park subject to any existing contractual right between the Owner and the Tenant located in the mobile home park. No such discontinuance shall be valid for any mobile home sold by the licensee and for which a mobile home site was made available at the time of the said sale by the licensee for a period of five (5) years from the date of said sale.

B. The Owner must provide the Board with satisfactory evidence that all notice requirements as to any alleged violation have been provided to the Tenant in a timely manner and the Tenant has failed to cure the alleged violation in a timely manner, all as set forth in General Laws, Chapter 140, Section 32J as amended.

C. 1. An Owner shall file an application in duplicate for obtaining a certificate of eviction with a filing fee of $50.00 for each unit for which eviction is sought. The fee shall be paid by check or money order made payable to the Town of Middleborough and presented at the time of filing the application for a certificate of eviction.

2. An application for certificate of eviction shall be signed by the Owner under the pains and penalties of perjury and shall describe in complete detail the proposed basis (or bases) for eviction and the facts in support of such basis (or bases). A copy of the lease and the rules and regulations of the mobile home park Owner shall be submitted with the application where the Tenant is claimed to have violated either the lease or the park regulations.

3. An application for certificate of eviction which fails to comply with the foregoing provisions of this paragraph "C" shall not be processed until such defects have been corrected or removed.

4. The Board shall, by certified mail, return receipted requested and by first class U.S. Mail, forward to the Tenant or Tenants listed on the application for a certificate of eviction and to the park Owner a copy of the application for a certification of eviction as received, together with a notice of the date, time and place of the hearing.

5. The Board shall send a notice of hearing by mail with respect to an application for a Certificate of Eviction within twenty-one (21) days of receipt of an application. An application or an amended application for eviction shall be scheduled for a hearing not less than ten (10) days or more than twenty-one (21) days from the date on which the notice of hearing is mailed as aforesaid by the Board to the parties. Hearings shall be conducted by the Board and shall be adjudicatory hearings following the procedures set forth in Massachusetts General Laws, Chapter 30A.

6. A request for postponement of the hearing will be granted for good cause shown.

7. At the hearing the Owner shall have the burden of establishing the facts and basis for the eviction. Testimony shall be taken under oath and any party shall have the right to cross-examine witnesses of the other party and to introduce evidence in support of its position.

8. A written order granting or denying a certificate of eviction shall be issued by the Board within thirty (30) days of the date of the final hearing and its order denying a certificate of eviction shall be a defense in any summary process action commenced by the Owner against the Tenant or Tenants named on the application for a certificate of eviction.

D. No Owner shall seek recovery of possession of a mobile home park accommodation in a summary process-eviction case unless the Board issues a certificate of eviction therefor.

E. The provisions of this section shall be construed as additional restrictions on the right to recover possession of a mobile home park accommodation. No provision of this section shall entitle any person to recover possession of such a mobile home park accommodation. Upon a decision of said Board concerning the granting or withholding of a certificate of eviction, either party concerned may appeal to the Wareham Division of the District Court Department or the Plymouth Division of the Superior Court Department.

Section 11 – Owners Shall Provide Rules and Regulations to Prospective Tenants:

Mobile Home Park Owners shall provide prospective tenants with a copy of the Town of Middleborough Rules and Regulations for Mobile Home Park Accommodations, Rents, and Evictions at least 72 hours in advance of the signing of a rental housing agreement.

Section 12 – Severability:

If any provision of these rules and regulation or the application of such provision to any person or circumstance shall be held invalid by a final judgment of a court of competent jurisdiction, the validity of other provisions or the application of such provision to other persons or circumstances shall not be thereby affected.

Section 13 – Forms:

Any forms adopted pursuant to the provisions of these rules and regulations shall be submitted to the Board under the pains and penalties of perjury.