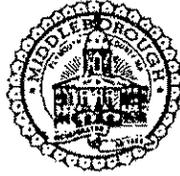


HEARINGS, MEETINGS, LICENSES
4-2-12

 **DRAFT**



 **DRAFT**

ANNUAL TOWN MEETING WARRANT

Middleborough, Massachusetts

To Bruce Gates, Police Chief or any of the
Police Officers of the Town of Middleborough

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn all the inhabitants of said Town, qualified to vote in Town affairs, to meet in the **Auditorium of the Middleborough High School, on Monday, June 11, 2012, at 7:30 P.M.**, to act on the following articles:

ARTICLE 1. To hear the report of any committee or officer of the Town, to appoint any committee, or act anything thereon.

ARTICLE 2. To see if the Town will vote to raise and appropriate a sum of money by taxation or from available funds in the treasury to defray expenses of the Town for the fiscal year beginning on July 1, 2012, relating to all or any of its officers, boards or departments and for purposes authorized by law, or act anything thereon.

ARTICLE 3. To see if the Town will vote to transfer from the income from the sales of gas and electricity a sum of money to the Assessors for the purpose of fixing the tax rate for Fiscal Year 2013, or act anything thereon.

ARTICLE 4. To see if the Town will vote to transfer \$96,654 from the receipts reserved for the Water Pollution Abatement Trust Loan Repayment Account in order to meet the Town's obligation for payment of the Water Pollution Trust Loan, or act anything thereon.

ARTICLE 5. To see if the Town will vote pursuant to Section 53E ½ of Chapter 44 of the General Laws, as amended, to authorize and/or reauthorize establishment of one or more revolving funds for the purpose of funding certain activities and operations of certain departments and programs of the Town during Fiscal Year 2013, or act anything thereon.

PROGRAM	EXPENDING AUTHORITY	SOURCE	AMOUNT TO BE EXPENDED
Municipal Fire Alarm System	Fire Chief	Fees	Not to exceed \$15,000
Hazardous Materials Incident			
Training & Materials	Fire Chief	Fees	Not to exceed \$50,000
Recycling Program	Public Works Sup.	Fees	Not to exceed \$2,500
Composting Bin Program	Public Works Sup.	Fees	Not to exceed \$2,500
Herring Fishery Program	Herring Fishery Com	Fees	Not to exceed \$10,000
Recreation and Sports Program	Park Commission	Fees	Not to exceed \$100,000
Zoning Map, Bylaws and			
Subdivision Rules & Regulations	Town Clerk	Fees	Not to exceed \$2,500

ARTICLE 6. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source to fund one or more collective bargaining agreements, or act anything thereon.

ARTICLE 7. To see if the Town will vote to raise and appropriate and /or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source for the purpose of reimbursing Town employees and retired Town employees and other persons enrolled in the Town's non-Medicare health insurance plans for some of the increases in health insurance HMO and PPO deductibles and co-payments paid by said employees and retirees and other persons in excess of the amounts of such deductibles and co-payments applicable during Fiscal Year 2012, and to pay any related costs, or act anything thereon.

ARTICLE 8. To see if the Town will vote to raise and appropriate and /or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source for the purpose of reimbursing retired Town employees and other persons enrolled in the Town's Medicare health insurance plans for some of the increases in health insurance co-payments paid by said retirees and other persons in excess of the amounts of such deductibles and co-payments applicable during Fiscal Year 2012, and to pay any related costs, or act anything thereon.

ARTICLE 9. To see if the Town will vote to raise and appropriate the sum of \$220,000.00 by borrowing under General Laws, Chapter 44, by borrowing from the Massachusetts Water Pollution Abatement Trust pursuant to General Laws Chapter 29C, or by raising and appropriating said sum from some other source for the purpose of funding the Town's program to repair, replace or upgrade septic waste disposal systems, or act anything thereon.

ARTICLE 10. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to purchase new police cruisers, new portable radios, and new tasers for the Police Department, or act anything thereon.

ARTICLE 11. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to purchase a new engine and a new command vehicle for the Fire Department, or act anything thereon.

ARTICLE 12. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to purchase a new loader and a new dump truck for the Public Works Department and a new utility truck for the Water Department, or act anything thereon.

ARTICLE 13. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to engineer and permit the expansion of the Council on Aging parking lot, replace windows and carpeting in the Town Hall Annex and to make roof repairs to the Town Hall Annex and Public Library, or act anything thereon.

ARTICLE 14. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to replace, burners, boilers, and HVAC units, and to study the feasibility of converting from steam heat to hot water heat at the Elementary Complex, or act anything thereon.

ARTICLE 15. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to replace part of the floor tiles and the stage lights and control box in the auditorium at Middleborough High School, or act anything thereon.

ARTICLE 16. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to purchase staff/classroom computers, printers, and file servers, LCD projectors and instructional technology, and computer network infrastructure for the School Department and to purchase computers, servers monitors, printers, and related hardware for various Town departments, or act anything thereon.

ARTICLE 17. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to study the feasibility of renovating and expanding the police station in its current location, or act anything thereon.

ARTICLE 18. To see if the Town will vote to appropriate or reserve from the Community Preservation Fund annual revenues in the amounts recommended by the Community Preservation Committee for committee administrative expenses, debt service, community preservation projects and other expenses in fiscal year 2013, with each item to be considered a separate appropriation:

Appropriations:

From FY 2013 estimated revenues for Committee Administrative Expenses	\$13,000
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Reserves:

From FY 2013 estimated revenues for Historic Resources Reserve	\$26,000
From FY 2013 estimated revenues for Community Housing Reserve	\$26,000
From FY 2013 estimated revenues for Open Space Reserve	\$26,000
From FY 2013 estimated revenues for Budgeted Reserve	\$150,000

, or act anything thereon.

Inserted by the Community Preservation Committee

ARTICLE 19. To see if the town will vote to amend the Zoning By-law by making the following changes as part of a recodification:

ITEM 1. Delete the following sections of the current Zoning By-law in their entireties, including amendments thereof:

Section I	Purpose
Section II	Definitions
Section III	Establishment of Districts

Section IV	Use Regulation
Section V	Area Regulations
Section VI	General Regulations
Section VII	Administration
Section VIII	Inlands Wetland District
Section IX	Development Opportunities (DO) District
Section X	Adult Mobile Home Parks
Section XI	Flood Plain District – Regulation of Flood Hazard Areas
Section XII	Water Resource Protection Districts By-Law (WRPD)
Section XIII	General Use District
Section XIV	Associate Member - Planning Board
Section XV	Adult Entertainment District
Section XVI	Open Space & Resource Preservation Development District
Section XVII	Business District
Section XVIII	Commercial Development (CD) District

ITEM 2. Substitute the following new Sections therefore:

Section 1.0	Purpose and Authority
Section 2.0	Districts
Section 3.0	Use Regulations
Section 4.0	Dimensional Requirements
Section 5.0	General Regulations
Section 6.0	Special Regulations
Section 7.0	Special Residential Regulations
Section 8.0	Overlay District Regulations
Section 9.0	Administration and Procedures
Section 10.0	Definitions

The full text of the new Sections being available for review at the office of the Town Clerk
, or act anything thereon.

ARTICLE 20. To see if the Town will vote to amend the Zoning By-laws by deleting Section XI in its entirety and substituting the following new section therefore:

SECTION XI

FLOOD PLAIN OVERLAY DISTRICT (FPD)

A. Purpose. It is the purpose off this Section to promote the public health, safety and general welfare, and to minimize losses by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety or property due to water or erosion hazards or which cause damaging increases in erosion, erosion hazards, flooding or flood velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Discourage individuals from buying lands which are unsuited for intended purposes because of flood hazard;
4. Control filling, grading and mineral extraction which may increase flood damage; and

5. Regulate the construction of levees, jetties and other works which may increase flood damage to lands which may be subject to flooding.
6. Ensure public safety through reducing the threats to life and personal injury;
7. Eliminate new hazards to emergency response officials.
8. Prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding.
9. Avoid the loss of utility service which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.
10. Eliminate costs associated with the response and cleanup of flooding conditions.
11. Reduce damage to public and private property resulting from flooding waters.

B. Applicability. The Flood Plain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Middleborough designated as Zone A and AE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Middleborough are panel numbers 25023C0303J, 25023C0304J, 25023C0308J, 25023C0309J, 25023C0311J, 25023C0312J, 25023C0313J, 25023C0314J, 25023C0316J, 25023C0317J, 25023C0318J, 25023C0319J, 25023C0328J, 25023C0329J, 25023C0336J, 25023C0337J, 25023C0338J, 25023C0339J, 25023C0343J, 25023C0431J, 25023C0432J, 25023C0433J, 25023C0434J, 25023C0442J, 25023C0451J, 25023C0452J, 25023C0453J, 25023C0454J, 25023C0456J, 25023C0458J, 25023C0459J, 25023C0461J, 25023C0462J, 25023C0466J, and 25023C0467J dated July 17, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector, and Conservation Commission.

C. Base Flood Elevation and Floodway Data.

1. Floodway Data. In Zones A, and AE, along watercourses that have not had a regulatory floodway designated the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is lesser, within unnumbered A zones.

D. Overlay District. The Flood Plain District is hereby established as an overlay district. All development in the District, including structural and non-structural activities, whether permitted by right or by special permit shall be in compliance with the Wetlands Protection Act, Chapter 131 Section 40 of the Massachusetts General Laws and with the following:

1. The section of the Massachusetts' State Building Code which addresses floodplain areas (currently 780 CMR),

2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

3. Inlands Wetlands Restriction, DEP (currently 310 CMR 13.00); and,

4. Minimum Requirements for Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15.00, Title 5)

E. Rule for Interpretation of District Boundaries. The boundaries of the Flood Plain District shall be determined by scaling distances in the said Maps except where elevations are provided in Zone AE. Where there appears to be a conflict between a mapped boundary and actual field conditions FEMA should be consulted for formal review and map revision. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires. (Needs work)

F. Notification of Watercourse Alteration. In a riverine situation, the Town Planner shall notify the following of any alteration or relocation of a watercourse:

1. Adjacent Communities
2. NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
3. NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th
Floor Boston, MA 02110

G. Compliance. No structure or land shall be used and no structure shall be located extended, converted or structurally altered without full compliance with the terms of this Section, the State Building Code, and other applicable regulations.

H. Abrogation and Greater Restrictions. It is not intended by this Section to repeal, abrogate or impair any existing easement, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provision of this Section shall prevail.

I. Warning and Disclaimer of Liability. The degree of flood and erosion protection required by this Section is considered reasonable for regulatory purposes and is based on scientific methods of study. Larger floods may occur. This Section does not imply that areas outside the Flood Hazard District boundaries or land uses permitted within such districts will be free from flooding or flood damages. This Section shall not create liability on the part of the Town of Middleborough or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made hereunder

J. Regulatory Flood Protection Elevation for Middleborough. Within Zone A where the base flood elevation is not provided for on documents referred to in Subsection 8.1.2, the applicant shall produce any already existing, reasonable, base flood elevation data and such data shall be submitted to the Inspector of Buildings for development criteria. Needs work

K. Permitted Uses. The following uses which have low flood damage points and do not threaten other lands during times of flood are encouraged within the Special Hazard Areas (Zones A and

AE), provided they are not prohibited by any other zoning regulations or other By-laws and do not require storage of materials, structures, flood control works, or substantial filling or grading. But no use shall be permitted which adversely affects the capacity of the channels of floodways of streams, drainage ditches, or any other drainage facility or system. (See FEMA List)

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2. Forestry and nursery uses.
3. Conservation of water, plants and wildlife.
4. Wildlife management area, foot, bicycle and/or horse paths.
5. Temporary non-residential structures used in connection with fishing, growing harvesting, storage or sale of crops raised on the premises.
6. Buildings lawfully existing prior to the adoption of these provisions.
7. Municipal uses such as water works, pumping stations and other essential services,
8. Outdoor recreational uses including fishing, boating, play areas, beaches, beach cabanas not suitable for dwellings, boardwalks and steps to permit access across swamps or marshes, pavilions and other similar small platforms, lifeguard stations, golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails, temporary structures for sale for food and refreshments, arts and crafts.
9. Residential uses such as lawns, gardens, parking areas, and structures for storage not designed for human habitation.

L. Other Use Regulations

1. Within Zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
2. In Zone AE, along watercourses within the Town of Middleborough, that have a regulatory floodway designated on the Plymouth county FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. All subdivision proposals must be designed to assure that:
 - a. Such proposals minimize flood damage;
 - b. All public utilities and facilities are located and constructed to minimize or eliminate flood damage
 - c. Adequate drainage is provided to reduce exposure to flood hazards.
4. Existing and proposed contours of site and elevations of existing and proposed structures must be included on plan proposal
5. There shall be established a routing procedure which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health and Building Inspector for comments which will be considered by the appropriate permitting Board prior to issuing applicable permits.

M. Flood Plain (Overlay) District Definitions: For the purposes of Section XI, the following terms are defined below:

Area of special flood hazard: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, AI-30, AE, A99, VI-30, VE, or V.

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Coastal high hazard area: An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone VE.

Development: Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

District: Section 8.1, the Flood Plain District.

Federal Emergency Management Agency (FEMA): the agency administering the National Flood Insurance Program. FEMA provides a Nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

Flood Insurance Rate Map (FIRM): An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study: An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

Lowest floor: The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

Manufactured home (mobile home): A structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Manufactured (mobile) home park or subdivision: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New construction: For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, new construction means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

One-hundred-year flood: See Base flood.

Regulatory Floodway: See Floodway.

Special flood hazard area: An area having special flood and/or flood-related erosion hazards, and shown on an FIRM as Zone A, AO, AI-30, AE, A99, AH, V, VI-30, VE.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance coverage purposes, means a walled and roofed building other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Zone A: The one-hundred-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available Federal, State, local, or other data.

Zone AE (for new and revised maps): The one-hundred-year floodplain where the base flood elevation has been determined.

Zone AH and Zone AO: The one-hundred-year floodplain with flood depths of one to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where the velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Zone A99: Areas to be protected from the one-hundred-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

Zone X: Areas identified in the community flood insurance study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

ARTICLE 21. Voter ID By Law:

Effective July 1, 2012, all registered voters shall be required to show valid photo identification at all town only elections and at town meeting.

Valid photo identification shall be determined by the Registrar of Voters and the list of acceptable identification shall be posted publically with all warrants and specimen ballots. In the event that valid photo identification is not presented at an election, a provisional ballot shall be provided.

Provisional ballot shall be counted upon the presentation of valid identification to the Town Clerks office within three business days of the election.

By Petition

ARTICLE 22. To see if the Town will vote to rescind the vote taken under Article 23 of the warrant for the June 14, 1993 Special Town Meeting that the Board of Selectmen shall be the Rent Board for the purpose of regulating rents, minimum standards for the use or occupancy of mobile home park accommodations and evictions of tenants therefrom pursuant to the provisions of Chapter 703 of the Acts of 1985, to authorize the Board of Selectmen to appoint a five (5) member Rent Board pursuant to the provisions of Chapter 703 of the Acts of 1985 for such terms as the Board of Selectmen determines, to provide that the Board of Selectmen shall by appointment fill any vacancies in the Rent Board, to provide that the Board of Selectmen shall cease to be the Rent Board under Chapter 703 of the Acts of 1985 from and after December 1, 2012 and that the members of the Rent Board appointed by the Board of Selectmen shall take office on December 1, 2012, or act anything thereon.

By Petition

ARTICLE 23. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to allow the Board to impose reasonable fees for the employment of outside consultants under the provisions of General Laws Chapter 44, Section 53G in connection with its review of petitions for rent adjustments under the Town's Rules and Regulations for Mobile Home Park Accommodations, Rents, and Evictions, or act anything thereon.

ARTICLE 24. To see if the Town will vote to rescind the Underground Fuel Storage – Testing for Leaks By Law, or act anything thereon.

ARTICLE 25. To see if the Town will vote to rescind the Fuel Oil Storage and Gasoline Storage By-Laws in their entireties and substitute the following new By-Law:

Fuel Oil and Gasoline Storage

The fee for a new or amended license for keeping, storage, manufacture or sale of fuel oil under Chapter 148, Section 13 shall be Fifty Dollars (\$50.00). The fee for an annual certificate of registration for keeping, storage, manufacture or sale of fuel oil under Chapter 148, Section 13 shall be Thirty Dollars (\$30.00). The fee for a new or amended license for keeping, storage, manufacture or sale of gasoline under Chapter 148, Section 13 shall be Thirty Dollars (\$30.00) per nozzle. The fee for an annual certificate of registration for keeping, storage, manufacture or sale of gasoline under Chapter 148, Section 13 shall be Twenty-Five Dollars (\$25.00) per nozzle, or act anything thereon.

ARTICLE 26. To see if the Town will vote to adopt the following by-law:

Non-Criminal Disposition By-Law

Section 1. Violation of any Town by-law identified in Section 2 hereof may in the discretion of the Town officer who is the appropriate enforcing person be enforced in the manner provided under Section 21D of Chapter 40 of the Massachusetts General Laws. The enforcing person taking cognizance of a violation of any such by-law which the enforcing person is empowered to enforce, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours not later than twenty-one days after the date of such notice. The non-criminal fine for each such violation shall be the amount identified in Section 2 hereof.

Section 2. The by-laws which are subject to this by-law and related penalties/fines are as follows:

<u>By-law</u>	<u>Penalty/Fine</u>
By-law regarding use of highways and streets (Adopted under Article 5 of March 7, 1927 Town Meeting)	\$ 20.00
By-law regarding disorderly conduct (Adopted under Article 7 of March 7, 1927 Town Meeting)	\$ 20.00
By-law regarding disorderly conduct (Adopted under Article 7 of October 3, 1972 Town Meeting)	\$ 50.00
By-law regarding public consumption of alcoholic beverages (Adopted under Article 7 of November 26, 1973 Town Meeting)	\$ 50.00
By-law regarding public profanity (Adopted under Article 8 of October 28, 1968 Town Meeting)	\$ 20.00
By-law regarding obstruction of roadway with snow or ice (Adopted under Article 11 of March 13, 1972 Town Meeting)	\$ 50.00
By-law regarding public use of marijuana (Adopted under Article 17 of May 26, 2009 Town Meeting)	\$300.00

Section 3.

The phrase “enforcing person” as used in this by-law shall mean any Town of Middleborough police officer with respect to any violation.

Section 4.

The provisions of Section 21D of Chapter 40 of Massachusetts General Laws shall apply to enforcement actions under this by-law, or act anything thereon.

ARTICLE 27. To see if the Town will vote to adopt the following by-law:

Regulation of Licenses for Purchase, Sale or Barter
of Junk, Old Metals or Second Hand Articles

Section 1: Every person or party who is a collector of, dealer in or keeper of a shop for the purchase, sale or barter of junk, old metals or second hand articles shall have a license issued by the Board of Selectmen. The license issued by the Board of Selectmen shall be subject to applicable provisions of General Laws Chapter 140 including without limitations Section 54 and Sections 202 to 205 inclusive.

Section 2: Any person or party holding a license or who is required to have a license pursuant to this by-law (hereafter “license”) who in the course of business buys, trades for, barterers for or otherwise acquires precious metals, jewelry or gemstones shall hold such items for a period of thirty (30) days from the date of acquisition of the items before selling, trading, bartering or

otherwise disposing of the items. During the thirty (30) day period, a licensee shall not melt or otherwise alter the appearance of such items.

Section 3: A licensee shall submit to the Middleborough Chief of Police a weekly report of all precious metals, jewelry or gemstones acquired by the licensee during the week prior to the report. Reports shall be written in English and legible. Reports shall include as to each such item: (1) a description of each item; (2) the date the item was acquired; and (3) the name, address, date of birth and driver's license number/state of issue of the person from whom the item was acquired. A weekly report shall be submitted on Monday or Tuesday of each week and shall include all such items acquired during the week prior to the date the report is submitted (Sunday through Saturday inclusive).

Section 4: A licensee may store and transmit reports required under Section 3 electronically subject to approval of the format of the reports by the Chief of Police.

Section 5: A licensee shall take a color photograph of all persons from whom the licensee acquires precious metals, jewelry or gemstones. A licensee shall also take a color photograph of all precious metals, jewelry and gemstones acquired by the licensee. The licensee shall retain the color photographs of the persons and items for not less than thirty (30) days from the date of acquisition of the items depicted in the photographs and shall make the photographs available for review by members of the Middleborough Police Department upon request.

Section 6: Definitions

As used in this by-law the following words and phrases shall have the following meanings:

“precious metals”, items containing gold, silver or platinum in whatever form;

“jewelry”, items containing precious metals, sometimes set with gemstones, intended for wear for personal adornment, including without limitation watches, pocket watches and other devices for keeping time;

“gemstones”, diamonds or other precious stones consisting of mineral or petrified material and used or suitable for use in jewelry.

Section 7: Whoever violates any provision of this by-law shall be subject to a fine of Three Hundred Dollars (\$300.00) for each violation,

, or act anything thereon.

ARTICLE 28. To see if the Town will vote to accept Section 33A of General Laws Chapter 138 which will allow the Board of Selectmen as licensing authority to authorize licensees under General Laws Chapter 138, Section 12 to sell alcoholic beverages between the hours of 1:00 a.m. and 2:00 a.m. on Sundays, the last Monday in May and on Christmas Day or on the day following when said day occurs on Sunday, or act anything thereon.

ARTICLE 29. To see if the Town will vote to accept Section 33B of General Laws Chapter 138 which will allow the Board of Selectmen as licensing authority to authorize licenses under General Laws Chapter 138, Section 12 to sell alcoholic beverages between the hours of 10:00 a.m. and 12:00 noon on Sundays, the last Monday in May and on Christmas Day or on the day following when said day occurs on Sunday, or act anything thereon.

ARTICLE 30. To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase and/or eminent domain the following described properties in Middleborough, said properties to be used in connection with a municipal water system well site:

- a) A parcel of land off Cross Street now or formerly owned by Alfred J. Gomes and Dorothy Lucas, containing 11.20 acres of land more or less, shown as Lot 3922 on

Assessors Map 040 and described in a deed recorded in the Plymouth County Registry of Deeds in Book 2582, Page 323;

- b) A parcel of land off Cross Street now or formerly owned by Brett and Lynn Deboyes containing 0.18 acres of land more or less and being a part of Lot 2341 on Assessors Map 040 and abutting land described above as being now or formerly owned by Gomes and Lucas. The parcel is part of the land described in a deed recorded in the Plymouth County Registry of Deeds in Book 16778, Page 095;
- c) A parcel of land off Cross Street now or formerly owned by Douglas and Marylou Green containing 1.60 acres of land more or less and being part of Lot 4623 on Assessors Map 040 and abutting land described above as being now or formerly owned by Gomes and Lucas. The parcel is part of the land described in a deed recorded in the Plymouth County Registry of Deeds in Book 6640, Page 040;
- d) A parcel of land off Cross Street now or formerly owned by Leo P. Nelson, Sr. and Leo P. Nelson, Jr. containing 0.54 acres of land more or less and being part of Lot 3029 on Assessors Map 040 and abutting land described above as being now or formerly owned by Gomes and Lucas. The parcel is part of the land described in a deed recorded in the Plymouth County Registry of Deeds in Book 6526, Page 215;
- e) A permanent access and utility easement in land on and off Cross Street now or formerly owned by Leo P. Nelson, Sr. and Leo P. Nelson, Jr. over land shown as Lot 3029 on Assessors Map 040, described in a deed recorded in the Plymouth County Registry of Deeds in Book 6526, Page 215, being of variable width and running from the easterly side of Cross Street to the westerly line of land described above as being now or formerly owned by Gomes and Lucas; and
- f) A temporary construction easement over land described above as now or formerly owned by Leo P. Nelson, Sr. and Leo P. Nelson, Jr. of variable width and abutting the permanent access and utility easement described above,

and to raise and appropriate a sum of money by borrowing, by transfer from the water development charge portion of the retained earnings of the Water Enterprise Fund and/or from another source to pay for acquisition of the properties and construction of the well and well site and access utility easement, or act anything thereon.

ARTICLE 31. To see if the Town will vote to authorize the Board of Selectmen to acquire easements in a parcel of land by gift, purchase or eminent domain in connection with the a drainage outlet pipe and water quality swale located at 29 Stone Street, Middleborough, MA, such parcel being shown on a plan entitled "Drainage Easement Plan, 29 Stone Street, Middleboro, MA" dated March 2012 prepared by Outback Engineering as follows:

Parcel #	Property Owner
E-1	Robert G. and Lynne A. Hession

, or act anything thereon.

ARTICLE 32. To see if the Town will vote to authorize the Board of Selectmen to acquire easements in a parcel of land by land transfer, gift, purchase or eminent domain in connection with a municipal well field known as the "Mizaras Well Site" located off Plymouth Street, Middleborough, MA, such parcel being shown on a plan entitled "Land Plan for Mizaras Well Site" dated March 2012 prepared by Stantac Consulting Services, Inc. as follows:

Parcel #	Property Owner	Land Area
B-1	Berterelli Brothers	
M-1	Town of Middleborough	

, or act anything thereon.

Given, under our hands at Middleborough, this 7th day of May, 2012.

Alfred P. Rullo, Jr., Chairman

Stephen J. McKinnon, Vice Chairman

Steven P. Spataro

Allin Frawley

Ben Quelle

BOARD OF SELECTMEN

Pursuant to the instructions contained in the above warrant, I have notified and warned all inhabitants of said Town of Middleborough, qualified to vote as expressed in said warrant, to meet at the time and place for the purpose specified by causing an attested copy of the same to be published in the Middleboro Gazette on the **24th day of May, 2012**, that date being more than seven days before the time specified for said meeting.

BRUCE GATES
Police Chief