

**HEARINGS, MEETINGS, LICENSES**  
**4-30-12**

**Town of Middleborough  
Middleborough Board of Health**

**Tobacco and Nicotine Delivery Product Sales Permit  
Regulation Restricting the Sale of Tobacco Products  
And Nicotine Delivery Products**

**A. Statement of Purpose:**

The Board of Health of the Town of Middleborough, Massachusetts, acting under the authority of Chapter 111, Section 31 of the Massachusetts General Laws and such other authority as it possess has enacted the following Regulations Affecting the Sale, Location, Vending and Distribution of Tobacco Products and Nicotine Delivery Products in the Town of Middleborough in the interest and preservation of public health effective [May 1, 2012], pursuant to a vote of the Board of Health.

**B. Authority:**

This regulation is promulgated pursuant to the authority granted to the Middleborough Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations".

**C. Definitions:**

For the purpose of this regulation, the following words shall have the following meanings:

**Business Agent:** An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

**Cigar:** Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece, not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

**E-Cigarette:** Any electronic Nicotine Delivery Product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

**Educational Institution:** Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

**Employee:** Any individual who performs services for an employer.

**Employer:** Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

**Health Care Institution:** An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112 or a retail establishment that provides pharmaceutical goods and services and subject to the provisions of 247 CMR 6.00. Health care institution includes, but is not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices and dentist offices.

**Minor:** Any individual who is under the age of eighteen (18).

**Nicotine Delivery Product:** Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine Delivery Product includes, but is not limited to, e-cigarettes.

**Permit Holder:** Any person engaged in the sale or distribution of tobacco or nicotine delivery products directly to consumers who applies for and receives a tobacco and nicotine delivery product sales permit or any person who is required to apply for a tobacco and nicotine delivery product sales permit pursuant to these regulations, or his or her business agent.

**Self-Service Display:** Any display or RYO machine from which customers may select or make a tobacco product or a Nicotine Delivery Product without assistance from an employee or store personnel.

**Tobacco Product:** Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, kreteks, snuff, blunt wraps, loose tobacco or tobacco in any of its forms.

**Bidis:** A thin, often flavored Indian cigarette made of tobacco wrapped in a leaf.

**Kreteks:** A cigarette product composed of tobacco, ground cloves and other additives.

**Snuff:** A preparation of finely pulverized tobacco that can be drawn up into the nostrils by inhaling, also called smokeless tobacco.

**Blunt Wraps:** Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

**Vending Machine:** Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes, any other tobacco product or Nicotine Delivery Product.

**Roll-Your-Own (RYO) machine:** A mechanical device, by whatever manufacturer made and by whatever name known, that is designed to roll and wrap tobacco into products.

**D. Tobacco and Nicotine Delivery Product Sales to Minors Prohibited:**

1. No person shall sell tobacco or nicotine delivery products or permit tobacco or nicotine delivery products to be sold to a minor; or not being the minor's parent or legal guardian, give tobacco or nicotine delivery products to a minor.

2. Required Signage

- a. In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health.
- b. The owner or other person in charge of a shop or other place used to sell nicotine delivery products at retail shall conspicuously post a sign stating that "The sale of nicotine delivery products to minors under 18 years of age is prohibited.". The notices shall be no smaller than 8.5" by 11" and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at or approaching the cash register. These notices shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

3. Identification: Each person selling or distributing tobacco or nicotine delivery products shall verify the age of the purchaser by means of valid government-issued photographic identification containing the bearer's date of birth and that the purchaser is 18 years old or older. Verification is required for any person under the age of 27. All tobacco retailers in the town of Middleboro are required to verify purchaser's age with an electronic age verification device on every tobacco purchase.

4. All retail sales of tobacco or nicotine delivery products must be face-to-face between the seller and the buyer.

(Exemption for approved vending machine.)

E. Tobacco and Nicotine Delivery Product Sales Permit:

1. No person shall sell or otherwise distribute tobacco or nicotine delivery products at retail within Middleborough without first obtaining a Tobacco and Nicotine Delivery Product Sales Permit issued annually by the Middleborough Board of Health. Only owners of establishments with a permanent, non-mobile location in Middleborough are eligible to apply for a permit and sell tobacco products or nicotine delivery products at the specified location in Middleborough.

2. As part of the Tobacco and Nicotine Delivery Product Sales Permit application process, the applicant will be provided with the Middleborough Board of Health regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco and nicotine delivery product sales about state and local laws regarding the sale of tobacco and nicotine products as indicated in this regulation.

3. Each applicant who sells tobacco is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a Tobacco and Nicotine Delivery Product Sales Permit can be issued.

4. The fee for a Tobacco and Nicotine Delivery Product Sales Permit shall be determined by the Middleborough Board of Health annually. All such permits shall be renewed annually by January 1. Renewal applications are to be submitted to the Health Department by November 30<sup>th</sup> prior to expiration of existing permits.

5. A separate permit is required for each retail establishment location selling tobacco or nicotine delivery products.

6. Each Tobacco and Nicotine Delivery Product Sales Permit shall be displayed at the retail establishment in a conspicuous location.

7. No Tobacco and Nicotine Delivery Product Sales Permit holder shall allow any employee to sell tobacco products or nicotine delivery products until such employee reads this regulation and state laws regarding the sale of tobacco and signs a statement that is written in the primary language of the employee that he/she has read and understands the regulation and applicable state and local laws, a copy of which will be placed on file in the office of the employer.

8. A Tobacco and Nicotine Delivery Product Sales Permit is non-transferable. A new owner/operator of an establishment that sells tobacco or nicotine delivery products must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.

9. Issuance of a Tobacco and Nicotine Delivery Product Sales Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation and with the understanding that compliance checks may be conducted on a periodic basis.

10. A Tobacco and Nicotine Delivery Product Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired.

**F. Free Distribution:**

No commercial entity shall distribute or furnish or cause to be furnished or distributed without charge, any nicotine delivery products, cigarettes, cigars or other tobacco products in any public place or any event open to the public. A public place means public streets, sidewalks, buildings, parks, playgrounds and other public property or places of public assembly.

**G. Out-of-Package Sales:**

1. No person may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

2. Roll-Your-Own machines are prohibited.

**H. Self-Service Displays:**

All self-service displays of tobacco products and/or nicotine delivery products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked, unless location does not allow under-18 without parent or legal guardian.

**I. Vending Machines:**

All tobacco and/or nicotine delivery product vending machines are prohibited unless approved by the Health Department in a location that is only accessible by adults over 18 years of age.

**J. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Health Care Institutions:**

No health care institution located in Middleborough shall sell or cause to be sold tobacco or nicotine delivery products. No retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products.

**K. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Educational Institutions:**

No educational institution located in Middleborough shall sell or cause to be sold tobacco or nicotine delivery products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

**L. Violations:**

1. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation pertaining to his or her distribution of tobacco and/or nicotine delivery products. For Section D (1) (Tobacco and Nicotine Delivery Product Sales to Minors Prohibited), each violation will be viewed as a separate violation, the violator shall receive:

- a. In the case of a first violation, a fine of one hundred dollars (\$100.00) and may include up to 7 day suspension consecutive business days.
- b. In the case of a second violation within thirty-six (36) months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco and Nicotine Delivery Product Sales Permit may be suspended for up to 15 consecutive business days.
- c. In the case of three or more violations within a thirty-six (36) month period, a fine of three hundred dollars (\$300.00) and the Tobacco and Nicotine Delivery Product Sales Permit may be suspended for up to thirty (30) consecutive business days or the Board of Health may revoke the Tobacco and Nicotine Delivery Product Sales Permit.

2. For Sections D.(2) Required Signage, D.(3) Identification, D.(4) Face-to-Face Sales, E. Tobacco And Nicotine Delivery Product Sales Permit , F. Cigar Sales Regulated, G. Free Distribution, H. Out of Package Sales, I. Self-Service Displays, J. Vending Machines, K. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Health Care Institutions, and/or L. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Educational Institutions, the violator shall receive a fine of one hundred dollars (\$100.00) for each offense and for each day the offense occurs.

3. Refusal to cooperate with inspections pursuant to this regulation may result in the suspension of the Tobacco and Nicotine Delivery Product Sales Permit for up to thirty (30) consecutive business days or revocation of the Tobacco and Nicotine Delivery Product Sales Permit after a hearing before the Board of Health.

4. Any permit holder who engages in the sale or distribution of tobacco or nicotine delivery products directly to a consumer without a valid permit or while his or her permit is suspended may be subject to the suspension of all board of health issued permits for up to thirty (30) consecutive business days and/or fined up to two hundred dollars (\$200.00) accordingly after a Board of Health hearing. Subsequent violations may result in suspension or permanent revocation of the Tobacco and Nicotine Delivery Product Sales Permit, fines and/or legal action.

5. The Middleborough Board of Health shall provide notice of the intent to suspend a Tobacco and Nicotine Delivery Product Sales Permit, which notice shall contain the reasons therefore and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefore in writing. **After a hearing, the Middleborough Board of Health may suspend the Tobacco and Nicotine Delivery Product Sales permit, levy fines, or set conditions on the business operation if the Board finds that a sale to a minor occurred.** For purposes of such suspensions, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products and nicotine delivery products shall be removed from the retail establishment location upon suspension of the Tobacco and Nicotine Delivery Product Sales Permit. Failure to remove all tobacco and nicotine delivery products shall constitute a separate violation of this regulation.

Each day any violation exists shall be deemed to be a separate offense.

M. Enforcement:

Enforcement of this regulation shall be by the Middleborough Board of Health or its designated agent(s).

Any citizen who desires to register a complaint pursuant to the regulation may do so by contacting the Middleborough Board of Health or its designated agent(s) in the Health Department.

N. Severability:

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

O. Effective Date:

This regulation shall take effect on May 1, 2012.



## Town of Middleborough

Massachusetts

Board of Selectmen

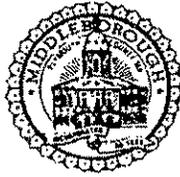
### MEMORANDUM

TO: Board of Selectmen  
FROM: Jackie Shanley, Confidential Secretary  
DATE: 4/30/12  
RE: Draft Article #26 – MGL 138, S. 12  
1 a.m. to 2 a.m. Serving Time for Alcoholic Beverages

I followed up with Town Counsel re Draft Article# 26. In summary, if Town Meeting accepts Ch. 138, Sec. 12, the Board will have the authority to grant an extension for serving Alcoholic beverages from 1 a.m. to 2 a.m. on any of the days mentioned below in bold. It **does NOT** apply only to New Year's Eve and it **does NOT** apply only to Sundays.

I also followed up with the Police Chief as you requested. The Chief is willing to support New Year's Eve extension requests, however, he would frown upon permitting the 1 a.m. to 2 a.m. extension on any other day of the year.

ARTICLE 26. 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.**



**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 1/2 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.

<b>PROGRAM</b>	<b>EXPENDING AUTHORITY</b>	<b>SOURCE</b>	<b>AMOUNT TO BE EXPENDED</b>
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 \$221,618.00 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 co-payments paid by said employees and retirees and other persons in excess of the amounts of such 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 \$96,733.00 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 health insurance premiums and co-payments paid by said retirees and other persons after 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 \$117,000.00 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 \$490,000.00 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 \$302,000.00 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 \$88,293.00 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, to make roof repairs to the Public Library, and to repair the Town Hall Cupola, or act anything thereon.

ARTICLE 14. To see if the Town will vote to raise and appropriate and/or transfer \$318,000.00 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 \$30,000 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 at Middleborough High School, or act anything thereon.

ARTICLE 16. To see if the Town will vote to raise and appropriate and/or transfer \$175,000.00 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, or act anything thereon.

ARTICLE 17. To see if the Town will vote to raise and appropriate and/or transfer \$50,000.00 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 of 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;
  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; and,

11. Reduce damage to public and private property resulting from flooding waters.

- B. **APPLICABILITY.** The Floodplain 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 fifty (50) lots or five (5) acres, whichever is less, within unnumbered A Zones.
- D. 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. 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.
- 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 1  
99 High Street, 6<sup>th</sup> 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 Buildings Inspector for development criteria.
- 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 Bylaws 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; and,
  - 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 (1%) 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 XI, the Flood Plain District.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): The agency administering the National Flood Insurance Program. FEMA provides a Nation wide 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 or 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 (100) 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 (100) year floodplain where the base flood elevation has been determined.

**ZONE AH AND ZONE AO:** The one hundred (100) year floodplain with flood depths of one (1) 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 (100) 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. 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 22. To see if the Town will vote to rescind the Underground Fuel Storage – Testing for Leaks By Law, or act anything thereon.

ARTICLE 23. 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 24. 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 25. 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 26. 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 27. 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 28.

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,

to transfer the management and control of a parcel of land on Cross Street shown as Lot 3788 on Assessors Map 40 containing 1.40 acres more or less to the Board of Selectmen for the purpose of conveying said parcel to Douglas and Marylou Green in exchange for said parcel owned by Green described above in (c), and to authorize the Board of Selectmen to exchange said parcels on terms and conditions as the Board determines 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 29. 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 30. To see if the Town will vote to authorize the Board of Selectmen to convey a part of the Town's well site property off Plymouth Street in North Middleborough, sometimes known as the Mizaras or Kalow well site shown as Lot 5173 on Assessors Map 10, containing about seven acres to Bertarelli Bros., Inc., or some other party, in exchange for a parcel of land abutting the well site, containing an equal amount of land as the said land to be conveyed to Bertarelli Brothers, Inc., being a part of Lot 5077 on Assessors Map 10, such exchange to be on terms and conditions as the Board determines, to transfer the management and control of said part of the well site to the Board of Selectmen for the purpose of making conveyance of the part of the well site as part of the land exchange, to authorize the Board of Selectmen to acquire the land to be conveyed by Bertarelli Brothers, Inc. by eminent domain and/or by deed, to authorize the Board of Selectmen to petition the General Court for legislation to authorize the conveyance and use of the part of the well site to be conveyed to Bertarelli Bros., Inc. for purposes other than public water supply/public water supply protection/aquifer protection, to authorize the Board of Selectmen to acquire by purchase and/or eminent domain a permanent access and utility easement in land owned by Bertarelli Brothers, Inc. shown as Lot 5077 on Assessors Map 10 and to raise and appropriate a sum of money by borrowing or otherwise to purchase the access and utility easement, or act anything thereon.

ARTICLE 31. 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 32. 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

Given, under our hands at Middleborough, this 7<sup>th</sup> day of May, 2012.

\_\_\_\_\_  
Alfred P. Rullo, Jr., Chairman

\_\_\_\_\_  
Allin Frawley, Vice Chairman

\_\_\_\_\_  
Steven P. Spataro

\_\_\_\_\_  
Ben Quelle

\_\_\_\_\_  
Stephen J. McKinnon  
**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

**FY2013 Five-Year Capital Needs and Expenditure Plan 4/19/2012 Draft Plan**

<b>Department/Category</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>	<b>FY2016</b>	<b>FY2017</b>
<b><u>POLICE DEPARTMENT:</u></b>					
Study of renovation and addition to existing Police Station	\$50,000				
Police Vehicles (replacement of 3 vehicles)	\$90,000				
Tasers (30)	\$20,000	\$17,195			
Portable Radios (replaces 1997)	\$7,000	\$7,000	\$7,000		
ATV's (replaces 2)		\$12,800			
Police Vehicles (replacement of 3 vehicles)		\$90,000			
Police Vehicles (replacement of 3 vehicles)			\$90,000		
Police Vehicles (replacement of 3 vehicles)				\$90,000	
Police Vehicles (replacement of 3 vehicles)					\$90,000
<b>TOTAL POLICE DEPARTMENT</b>	<b>\$167,000</b>	<b>\$126,995</b>	<b>\$97,000</b>	<b>\$90,000</b>	<b>\$90,000</b>
<b><u>FIRE DEPARTMENT:</u></b>					
FP Vehicle (replaces 2000)	\$40,000				
Engine #2 (replaces 1989)	\$450,000				
Forrestry #2 (replaces 1967)		\$215,000			
Command (replaces 2005)		\$55,000			
Portable Radios (replaces 2000)		\$45,000			
Support/Tow 1 (replaces 1998)			\$40,000		
Tanker 1 (replaces 1989)			\$250,000		
Forestry #1 (replaces 1984)			\$300,000		
Deputy/Code (replaces 2003)				\$40,000	
Engine #4 (replaces 1999)				\$450,000	
Engine #6 (replaces 2003)					\$475,000
Dive (replaces 1972)					\$40,000
<b>TOTAL FIRE DEPARTMENT</b>	<b>\$490,000</b>	<b>\$315,000</b>	<b>\$590,000</b>	<b>\$490,000</b>	<b>\$515,000</b>
<b><u>PARK DEPARTMENT</u></b>					
New Toro Mowing Unit (replacement of 1997 vehicle)				\$92,000	
Maintenance Garage					\$120,000
Repaving of Basketball Court and Skate Park					
New Dump Truck (replacement of 1989 vehicle)					
New Kubota Tractor (replacement of 1986 vehicle)					
<b>TOTAL PARK DEPARTMENT</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$92,000</b>	<b>\$120,000</b>
<b><u>DEPARTMENT OF PUBLIC WORKS:</u></b>					
Loader (replaces L-3 1978 loader)	\$152,000				
4 x 4 Dump Truck (replaces H-2 1987 4 x 4 dump w/plow)	\$50,000				
Pickup/Plow (replaces H-14 1996 pickup with plow)	\$50,000				
Traffic Signal Audible Signal (Wareham, Center and Main)		\$9,925			
Street Sweeper (replaces M-9 1999 street sweeper)		\$170,000			
6 Wheel Dump Truck/Sander (replaces S-6 1984)		\$130,000			
Pickup (replaces H-16 1987 pickup)		\$34,000			
6 Wheel Dump Truck/Sander (replaces S-2 1985 6 wheel dump/sander)		\$135,000			
Asphalt Roller (replaces 1986 roller)			\$22,000		
Dump Truck/Sander (replaces H-21 1990 dump/sander)			\$140,000		
6 Wheel Dump Truck/Sander (replaces S-7 1987 6 wheel dump/sander)			\$140,000		
Loader (replaces L-1 1996 Cat)			\$140,000		
Backhoe (replaces BH-1 1986 backhoe)			\$75,000		
4 x 4 Dump Truck (replaces H-4 1998 4 x 4 dump)				\$56,000	
10 Wheel Dump Truck (replaces H-5 1990 10 wheel dump)				\$160,000	
6 Wheel Dump Truck/Sander (replaces S-1 1988 6 wheel dump/sander)				\$140,000	
Sidewalk Plow (replaces B-1 sidewalk plow)				\$125,000	
Tractor (replaces 1999 tractor)				\$40,000	
Pickup (replaces H-24 2005 pickup)				\$30,000	
6 Wheel Dump Truck/Sander (replaces H-6 1996 Volvo)					\$145,000
6 Wheel Dump Truck/Sander (replaces H-9 1986 Chevy)					\$145,000
4 x 4 Pickup w/plow (replaces H-16 1987 Ford)					\$35,000
<b>TOTAL DEPARTMENT OF PUBLIC WORKS (HIGHWAY)</b>	<b>\$252,000</b>	<b>\$478,925</b>	<b>\$517,000</b>	<b>\$551,000</b>	<b>\$325,000</b>

**FY2013 Five-Year Capital Needs and Expenditure Plan 4/19/2012 Draft Plan**

<b>Department/Category</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>	<b>FY2016</b>	<b>FY2017</b>
<b>WASTEWATER DEPARTMENT:</b>					
6 Wheel Truck (replaces W10 6 wheel truck)		\$80,000			
<b>TOTAL WASTEWATER DEPARTMENT</b>	\$0	\$80,000	\$0	\$0	\$0
<b>WATER DEPARTMENT:</b>					
Utility Truck (replaces W-4 1995 utility truck)	\$50,000				
Pickup Truck (replaces 2002 pickup truck)					\$40,000
<b>TOTAL WATER DEPARTMENT</b>	\$50,000	\$0	\$0	\$0	\$40,000
<b>TRASH:</b>					
Rubbish Truck (replaces R3 old 1998 rubbish)		\$185,000			
Rubbish Truck (replaces R3 old 1998 rubbish)			\$190,000		
Recycling Vehicle (replaces RC-1 1994 recycle)				\$195,000	
<b>TOTAL TRASH</b>	\$0	\$185,000	\$190,000	\$195,000	\$0
<b>COUNCIL ON AGING:</b>					
Parking lot expansion engineering and permitting	\$9,200				
Parking lot construction		\$60,000			
<b>TOTAL COUNCIL ON AGING</b>	\$9,200	\$60,000	\$0	\$0	\$0
<b>TOWN HALL AND TOWN HALL ANNEX:</b>					
Window replacement in Annex Building	\$20,000				
Replace carpeting in Town Hall and Annex	\$11,621				
Town Hall Cupola Repair	\$12,472				
Insulation of Town Hall Attic		\$100,000			
Replace carpeting in Town Hall and Annex		\$13,335			
Repair Bank Building Roof		\$45,000			
Replace carpeting in Town Hall and Annex			\$6,052		
Replace carpeting in Town Hall and Annex				\$13,675	
<b>TOTAL TOWN HALL</b>	\$44,093	\$158,335	\$6,052	\$13,675	\$0
<b>LIBRARY:</b>					
Replace asphalt shingled roof	\$35,000				
Replace boiler		\$30,800			
Replace membrane on flat roof			\$19,500		
Replace wooden windows on addition				\$40,000	
Replace carpeting					
<b>TOTAL LIBRARY</b>	\$35,000	\$30,800	\$19,500	\$40,000	\$0
<b>INFORMATION TECHNOLOGY TOWN:</b>					
<b>HARDWARE</b>					
Servers	\$8,200		\$8,200		\$9,600
CPU Replacements	\$33,960		\$37,500		\$14,850
Laptop Replacements	\$9,000	\$9,000	\$6,000	\$6,000	\$7,500
System Hardware I-Net	\$6,500	\$4,500	\$5,600	\$3,500	\$3,500
Central Printer Contract	\$12,000	\$12,000	\$10,000	\$8,000	\$8,000
<b>SUBTOTAL HARDWARE</b>	\$69,660	\$25,500	\$67,300	\$17,500	\$43,450
<b>SOFTWARE</b>					
Program Software	\$5,000	\$5,000	\$5,000	\$5,000	\$8,000
Server Software	\$9,800				\$9,800
GIS Standardization - topography, orthogonal	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
<b>SUBTOTAL SOFTWARE</b>	\$34,800	\$25,000	\$25,000	\$25,000	\$37,800
<b>TOTAL INFORMATION TECHNOLOGY</b>	\$104,460	\$50,500	\$92,300	\$42,500	\$81,250

**FY2013 Five-Year Capital Needs and Expenditure Plan 4/19/2012 Draft Plan**

<b>Department/Category</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>	<b>FY2016</b>	<b>FY2017</b>
<b>SCHOOL DEPARTMENT:</b>					
<b>ELEMENTARY COMPLEX:</b>					
Replacement of HVAC rooftop units at Henry B. Burkland School (3 units @ \$50,000 HBB Cafeteria/Office)	\$150,000				
Replace one (1) boiler with new burner at Henry B. Burkland School (\$80,000 each)	\$80,000				
Replace one (1) burner on existing boiler at Henry B. Burkland School (\$17,000 each)	\$17,000				
Replace three (3) burners on existing boilers at Mary K. Goode School (\$17,000 each)	\$51,000				
Feasibility Study on Boilers at HBB and MKG to convert system from steam heat to hot water heat.	\$20,000				
Parital work to enlarge (grading) and repaving the parking lots (both)		\$50,000			
Replacement of HVAC rooftop units (3 units @ \$50,000 HBB Auditorium)		\$150,000			
Install central computer controlled HVAC system at Mary K. Goode			\$200,000		
Install central computer controlled HVAC system at Burkland School				\$200,000	
Complete repaving at the Mary K. Goode/Henry B. Burkland Schools				\$50,000	
<b>ELEMENTARY COMPLEX TOTALS</b>	<b>\$318,000</b>	<b>\$200,000</b>	<b>\$200,000</b>	<b>\$250,000</b>	<b>\$0</b>
<b>NICHOLS MIDDLE SCHOOL:</b>					
<b>NICHOLS MIDDLE SCHOOL TOTALS</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>MIDDLEBOROUGH HIGH SCHOOL:</b>					
Partial replacement of floor tiles	\$30,000				
Stage lights and control box		\$30,000			
Ceiling Tiles (8 hallways @ \$10,000)		\$80,000			
Classroom furniture replacement (2 rooms 30 desks/chairs @\$20,000)		\$40,000			
Partial replacement of floor tiles		\$30,000			
Replace/upgrade fire alarm systems		\$85,000			
Upgrade interior lighting for new lighting requirements (T12 bulbs will not be manufactured after 2012 being replaced with T8s)		\$100,000			
Partial replacement of floor tiles			\$30,000		
Classroom furniture replacement (2 rooms 30 desks/chairs @\$20,000)			\$40,000		
Reconstruction of walkway and supporting structure(s) (study complete)			\$275,000		
Replace lunch tables (20 round tables @ \$200 and 160 chairs @ \$25)			\$8,000		
Partial replacement of floor tiles				\$30,000	
Classroom furniture replacement (2 rooms 30 desks/chairs @\$20,000)				\$40,000	
Replacement of first floor and locker room windows				\$150,000	
Gymnasium floor (poured)					\$200,000
Replace two (2) boilers with new burners (or 4-6 new smaller boilers) (\$80,000 each)					\$480,000
<b>MIDDLEBOROUGH HIGH SCHOOL TOTALS</b>	<b>\$30,000</b>	<b>\$365,000</b>	<b>\$353,000</b>	<b>\$220,000</b>	<b>\$680,000</b>
<b>MEMORIAL EARLY CHILDHOOD CENTER:</b>					
Emergency Generator					
<b>MEMORIAL EARLY CHILDHOOD CENTER TOTALS</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>LINCOLN D. LYNCH SCHOOL:</b>					
Basement Waterproofing		\$30,000			
Replacement of roof (1991)			\$225,000		
<b>LINCOLN D. LYNCH SCHOOL TOTALS</b>	<b>\$0</b>	<b>\$30,000</b>	<b>\$225,000</b>	<b>\$0</b>	<b>\$0</b>
<b>SCHOOL STREET SCHOOL:</b>					
Basement Waterproofing		\$30,000			
<b>SCHOOL STREET SCHOOL TOTALS:</b>	<b>\$0</b>	<b>\$30,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FY2013 Five-Year Capital Needs and Expenditure Plan 4/19/2012 Draft Plan**

<b>Department/Category</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>	<b>FY2016</b>	<b>FY2017</b>
<b>SCHOOL SYSTEM-WIDE:</b>					
Replacement of special needs vehicle - 20/30 passenger bus w/ wheelchair lift (replaces 2003 Chevy Sturdi wheelchair mini-bus)	\$60,000				
Siding for Flora Clark Administration Building		\$35,000			
Replacement of (1991) maintenance vehicle and plow (1 Ton, 4WD)		\$50,000			
Replacement of 2003 special needs mini-bus with 20/30 passenger bus		\$50,000			
Replacement of 2001 special needs mini-bus with 20/40 passenger bus			\$60,000		
Replacement of 2001 mini-bus with half bus with lift/tracking for 4 chair				\$70,000	
Replacement of 2004 special needs mini-bus with 20/30 passenger bus					\$50,000
<b>SCHOOL SYSTEM-WIDE TOTALS</b>	<b>\$60,000</b>	<b>\$135,000</b>	<b>\$60,000</b>	<b>\$70,000</b>	<b>\$0</b>
<b>INFORMATION TECHNOLOGY SCHOOLS:</b>					
Computers, Printers, Fileserver Replacement for Staff/Classrooms	\$125,000	\$250,000	\$250,000	\$250,000	\$0
Instructional Technology/LCD Projectors	\$25,000	\$50,000	\$50,000	\$50,000	\$0
Computer Network Infrastructure (Network Switching Equipment)	\$25,000	\$50,000	\$50,000	\$50,000	\$50,000
<b>INFORMATION TECHNOLOGY SCHOOLS TOTALS</b>	<b>\$175,000</b>	<b>\$350,000</b>	<b>\$350,000</b>	<b>\$350,000</b>	<b>\$50,000</b>
<b>TOTAL SCHOOL</b>	<b>\$583,000</b>	<b>\$1,110,000</b>	<b>\$1,188,000</b>	<b>\$890,000</b>	<b>\$730,000</b>
<b>TOTAL TOWN</b>	<b>\$1,151,753</b>	<b>\$1,485,555</b>	<b>\$1,511,852</b>	<b>\$1,514,175</b>	<b>\$1,171,250</b>
<b>Total Capital Projects</b>	<b>\$1,734,753</b>	<b>\$2,595,555</b>	<b>\$2,699,852</b>	<b>\$2,404,175</b>	<b>\$1,901,250</b>

<b>Funding Sources</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>	<b>FY2016</b>	<b>FY2017</b>
Tax Levy	\$150,000	\$200,000	\$250,000	\$300,000	\$350,000
Borrowing	\$1,272,953	\$1,843,560	\$2,077,852	\$1,724,175	\$1,383,450
Free Cash	\$261,800	\$286,995	\$182,000	\$185,000	\$127,800
Grant Funds	\$0	\$0	\$0	\$0	\$0
Enterprise Funds	\$50,000	\$265,000	\$190,000	\$195,000	\$40,000
<b>Total Funding</b>	<b>\$1,734,753</b>	<b>\$2,595,555</b>	<b>\$2,699,852</b>	<b>\$2,404,175</b>	<b>\$1,901,250</b>
<b>Total Capital Projects</b>	<b>\$1,734,753</b>	<b>\$2,595,555</b>	<b>\$2,699,852</b>	<b>\$2,404,175</b>	<b>\$1,901,250</b>