



NOTICE OF HEARING

Please take notice that the Town of Middleborough Rent Board, ("Rent Board") will hold a hearing on **Wednesday, May 28, 2014 at 7:00 PM** in the Selectmen's Meeting Room at the Middleborough Town Hall in Middleborough, MA. The hearing will be conducted pursuant to the authority under the Rent Board's "Rules and Regulations For Mobile Home Park Accommodations, Rents And Evictions" and Chapter 703 of the Acts of 1985 to consider a petition filed by Edgeway Homeowner's Association, Inc. for an increase in rents to be paid by tenants of Edgeway Mobile Home Park (the "Park"). Hearing procedures will be governed by the Informal/Fair Hearing Rules pursuant to 801 CMR 1.02. The Park Owner and the tenants shall each have the right to participate in the hearing and have the right to be represented at the hearing by an authorized representative or attorney. They, or their representative/attorneys, shall have the right to prepare and present relevant evidence and argument at the hearing. Information relating to operating expenses, incurred by the Park, is on file with the Rent Board at the office of the Board of Selectmen in the Town Hall, 10 Nickerson Ave. This material is available for review by the general public Monday through Friday from 9 a.m. to 5 p.m.

The issues involved in the hearing include:

- Whether the rents paid by tenants in the Park will be increased.

TOWN OF MIDDLEBOROUGH RENT BOARD

Allin Frawley, Chairman
Leilani Dalpe, Vice Chairman
John M. Knowlton
Diane Stewart
Stephen J. McKinnon

Publish: May 15, 2014

Please bill the Town of Middleborough Board of Selectmen's office.

AGREEMENT

Agreement made this 28th day of May, 2014 by and between Robert J. Whalen, Building Commissioner of the Town of Middleborough, the Board of Selectmen of the Town of Middleborough, the Planning Board of the Town of Middleborough, Jeanne Spalding, Health Officer of the Town of Middleborough, and the Town of Middleborough (hereafter collectively the "Town") and Edgeway Homeowners' Association, Inc. (hereafter "Edgeway Homeowners Association" or "EHA"), a Massachusetts nonprofit corporation with a regular place of business in Middleboro, Massachusetts.

WHEREAS EHA, intends to purchase the property in Middleboro, Massachusetts known as Edgeway Mobile Home Park (the "Park"); and

WHEREAS the existing owner of the Park, Corey Farcas, Trustee of Edgeway Realty Trust, entered into an Agreement for Judgment on or about September 15, 2011 in the Plymouth Superior Court in the case of Whalen et al v. (Williams) Farcas, Trustee, Docket No. 2004-01471-A. The Agreement for Judgment required the owner to do certain work to be completed in the Park.; and

WHEREAS EHA, an association consisting of the Park's residents, intends to purchase the Park and to repair and modify its infrastructure and systems in order to bring the Park into regulatory compliance and improve the standard of living of the residents, and wants to enter into this agreement with the Town in order to secure financing to purchase and operate the Park; and

WHEREAS, EHA's members are elderly Park residents having limited income and who have been living for years with failed or incomplete Park infrastructure; and

WHEREAS, recognizing that without this agreement to enable the EHA to purchase the Park, the required modifications and repairs to the Park needed to protect the health, safety and welfare of the Park residents would not otherwise occur in a timely manner; and

WHEREAS, considering the magnitude and expense of the required remedial work and in order to facilitate the purchase of the Park by its current residents and the financing of such needed modifications and repairs, EHA representatives met with various agencies of the Town and negotiated new conceptual terms and conditions for EHA's compliance with the existing Special Permit for the Park and Agreement for Judgment. Such conceptual new terms and conditions are reflected, in the "Report to Accompany Plan of Proposed Site Modifications for Edgeway Estates, Middleborough, Massachusetts," dated March 11, 2014, revised May 20, 2014 (as well as all appendices attached thereto) (the "Report"), and the plans submitted by Prime Engineering, Inc., to the Middleborough Planning Board, entitled "Edgeway Estates, Middleboro, Massachusetts, Concept of Site Modifications," dated April 14, 2014, revised April 18, 2014 (the "Plan");

Accordingly, it is hereby agreed by and between the Town and Edgeway Homeowners' Association, Inc. as follows:

1. Edgeway Homeowners' Association, Inc., upon purchase of the Park shall be subject to the provisions and requirements of the Agreement for Judgment to the same extent and manner as Corey W. Farcas, Trustee was and is subject to the Agreement for Judgment.
2. The parties hereby incorporate in this agreement by reference the "Report to Accompany Plan of Proposed Site Modifications for Edgeway Estates, Middleborough, Massachusetts," prepared by Prime Engineering, Inc., dated March 11, 2014, revised May 20, 2014 (as well as all appendices attached thereto) (the "Report"), and the plans submitted by Prime Engineering, Inc., to the Middleborough Planning Board, entitled "Edgeway Estates, Middleboro, Massachusetts, Concept of

Site Modifications,” consisting of 18 sheets, dated April 14, 2014, revised April 18, 2014 (the “Plan”), and further agree that the Report and the Plan, including but not limited to Section 3.0 “Phasing, Construction Sequence and Projected Schedule,” of the Report shall constitute the conceptual improvements and construction sequence required by the Town, until such time as the following permits and approvals are issued by the Town acting through its Boards, Commissions and Departments and other local, State or federal regulatory authorities, including but not limited to: Amended and Restated Special Permit by the Planning Board pursuant to the Middleborough Zoning Bylaw; Disposal Works Permit by the Health Department pursuant to Title 5 of the State Sanitary Code and the Middleborough Board of Health Regulations; Order of Conditions by the Conservation Commission, pursuant to the Wetlands Protection Act; and, Public Water Supply Connection Permits by the Town of Lakeville and City of Taunton. Full and complete application for said permits and approvals shall be made within three (3) months of the date of purchase of the Park by EHA. EHA shall fully comply with the Middleborough Subdivision Rules and Regulations including Section VI. Rules and Regulations of the Planning Board as Special Permit Granting Authority, which require the payment of application fees, engineering review, construction inspection and material testing fees and the submission and approval of as-built plans for all infrastructure installed.

3. In the event that unanticipated, significant and economically prohibitive cost overruns are experienced, for example, that the condition of the waterlines in the Park requires them to be replaced at a much higher cost, the parties agree that EHA may petition the appropriate municipal authorities to request reasonable extensions of time or

further adjustments to the quantity or quality of the modifications or repairs, through amendment of applicable permits and approvals including but not limited to those referenced above and this agreement.

4. The parties recognize and anticipate that final permitting and/or approvals including but not limited to those referenced above may result in changes to the conceptually agreed upon repairs and modifications contained in the Report and Plan.
5. Upon the issuance of any final permit, approval, or other permission required to proceed with any required modifications and repairs set forth in the Report and Plan, the terms and conditions of any such final permit, approval, or other permission shall supersede those conceptually agreed upon and reflected in the Report and Plan.
6. The parties further acknowledge and agree that the Town entered into this agreement based on the special and unique circumstances of EHA, namely, that EHA's members are elderly residents of the Park living on fixed incomes, the significant economic burden of having to remediate most if not all of the Park's infrastructure, the long history of non-compliance by the prior owners of the Park, as well as the deplorable conditions under which the residents have been and continue to live, and in recognition of the fact that such deplorable conditions will not be rectified in the near future if the residents are unable to finance modifications and repairs as well as financing the purchase of the Park.
7. The Middleborough Planning Board is holding the proceeds from a letter of credit as a cash bond (the "surety") furnished by said defendant Corey Farcas, Trustee's predecessor as surety for completion of the infrastructure of the Park pursuant to and required under a Special Permit issued for the Park by the Planning Board, the

infrastructure including but not limited to the roads, street drainage facilities, buffer and street lighting. The Agreement for Judgment (Paragraph IV) entitled the Planning Board to retain as the property of the Town of Middleborough the said proceeds of the surety (presently approximately \$140,000.00) if the construction and installations required under certain provisions of the Agreement for Judgment were not completed within a specified time. That construction and installation did not occur as required. The Agreement for Judgment further provided that if construction and installations were completed and certified in the time required, the Town of Middleborough through its Planning Board would pay the proceeds to the defendant, or to defendant's successor in title who was the record owner of the Park property on the date that all required construction, installation and certification was completed. This agreement confirms that the Town of Middleborough and its Planning Board have chosen not to retain the proceeds from the surety as the property of the Town of Middleborough as the result of the failure to complete construction and installation as required, and the Town and the Planning Board agree that the surety may continue to be held as a Performance Bond Secured by Deposit for the purpose of securing completion of the infrastructure of the Park, including but not limited to the roads, street drainage facilities and buffer, pursuant to and required under an Amended and Restated Special Permit to be issued by the Planning Board, for the benefit of EHA, its successors and assigns. EHA shall execute a new Form G - Performance Bond Secured by Deposit and Form H - Covenant upon issuance of an Amended and Restated Special Permit. EHA acknowledges and agrees that all parties holding a mortgage interest in the Park shall be required to join in the Form H - Covenant and

agree to hold its/their mortgage(s) on the Park subject to the Covenant and agree to subordinate its/their mortgage(s) to the Covenant as if the Covenant were recorded before the mortgage(s). Upon satisfactory completion of the modifications and repairs as set forth in an Amended and Restated Special Permit to be issued by the Planning Board, the Planning Board shall pay said surety proceeds to EHA or EHA's successor in title who is the record owner of the Park property on the date that all required construction, installation and certification are completed. The Town through its Planning Board shall be entitled to retain the surety proceeds as the property of the Town of Middleborough if the modification and repairs set forth in an Amended and Restated Special Permit issued by the Planning Board are not satisfactorily completed in the time required. EHA shall indemnify and hold the Town of Middleborough and the individual Town officers and boards who are parties to this Agreement harmless with respect to any claims for damages arising out of or in connection with the payment of the surety proceeds to EHA or successor title holder.

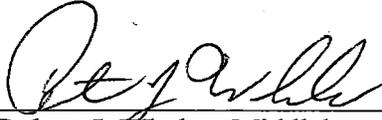
8. An attested copy of this agreement may be recorded at the Plymouth County Registry of Deeds.
9. Nothing in this agreement shall be construed to amend or supersede any provision of the Agreement for Judgment. However, upon satisfactory completion of the work to be done as provided for under this agreement as identified in the Report and Plan in the time(s) required under this agreement, the Town and EHA agree that such timely completion of the work shall be deemed to have fully satisfied the requirements of the Agreement for Judgment and the underlying judgment entered in the case.

10. EHA agrees that it shall complete all work in the Park as provided as identified in the Report and Plan on or before June 30, 2016.

WITNESS the hands and seals of the undersigned on the date first written above.

Edgeway Homeowners' Association, Inc.

President



Robert J. Whalen, Middleborough
Building Commissioner

Middleborough Board of Selectmen

Treasurer



Jeanne Spalding, Middleborough
Health Officer



William Saucan

Middleborough Planning Board

5-20-14

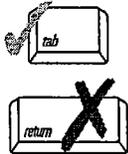


Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 8B – Certificate of Compliance
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:
SE 220-593
 Provided by DEP

A. Project Information

Important:
 When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. This Certificate of Compliance is issued to:

Edgeway Realty Trust
 Name
c/o James Burke 48 North Pearl Street
 Mailing Address
Brockton MA 02301
 City/Town State Zip Code

2. This Certificate of Compliance is issued for work regulated by a final Order of Conditions issued to:

Edgeway Realty Trust
 Name
July 31, 1997 SE220-593
 Dated DEP File Number

3. The project site is located at:

Pine Cone Circle (Edgeway Mobile Home Park) Middleborough
 City/Town
Map 57 Lot 4537
 Assessors Map/Plat Number Parcel/Lot Number

the final Order of Condition was recorded at the Registry of Deeds for:

Edgeway Realty Trust
 Property Owner (if different)
Plymouth 15406 279
 County Book Page

Certificate

4. A site inspection was made in the presence of the applicant, or the applicant's agent, on:

4/29/2014
 Date



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 8B – Certificate of Compliance
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

SE 220-593
 Provided by DEP

B. Certification

Check all that apply:

- Complete Certification:** It is hereby certified that the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.

- Partial Certification:** It is hereby certified that only the following portions of work regulated by the above-referenced Order of Conditions have been satisfactorily completed. The project areas or work subject to this partial certification that have been completed and are released from this Order are:

- Invalid Order of Conditions:** It is hereby certified that the work regulated by the above-referenced Order of Conditions never commenced. The Order of Conditions has lapsed and is therefore no longer valid. No future work subject to regulation under the Wetlands Protection Act may commence without filing a new Notice of Intent and receiving a new Order of Conditions.

- Ongoing Conditions:** The following conditions of the Order shall continue: (Include any conditions contained in the Final Order, such as maintenance or monitoring, that should continue for a longer period).

Condition Numbers:

C. Authorization

Issued by:

Middleborough
 Conservation Commission

5/21/2014
 Date of Issuance

This Certificate must be signed by a majority of the Conservation Commission and a copy sent to the applicant and appropriate DEP Regional Office (See <http://www.mass.gov/dep/about/region/findyour.htm>).

Signatures:

Ronald Burgess

Ronald Burgess

Janet Miller

Janet Miller

D. Jeffrey Erickson

D. Jeffrey Erickson

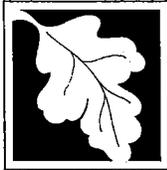
Diane Stewart

Deborah Kirsch

Steven Ventresca

John Medeiros

John Medeiros



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 8B – Certificate of Compliance
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

SE 220-593
Provided by DEP

D. Recording Confirmation

The applicant is responsible for ensuring that this Certificate of Compliance is recorded in the Registry of Deeds or the Land Court for the district in which the land is located.

Detach on dotted line and submit to the Conservation Commission.

To:

Middleborough
Conservation Commission

Please be advised that the Certificate of Compliance for the project at:

Pine Cone Circle (Edgeway Mobile Home Park) SE220-593
Project Location DEP File Number

Has been recorded at the Registry of Deeds of:

Plymouth
County

for:

Property Owner

and has been noted in the chain of title of the affected property on:

Date Book Page

If recorded land, the instrument number which identifies this transaction is:

If registered land, the document number which identifies this transaction is:

Document Number

Signature of Applicant

303

310 CMR 10.99

Form 8

FILE



Commonwealth
of Massachusetts

DEP File No. SE220-407

(To be provided by DEP)
Middleborough

City/Town _____

Applicant _____

**Certificate of Compliance
Massachusetts Wetlands Protection Act, G.L. c. 131, §40**

From Middleborough Conservation Commission Issuing Authority

To Edgeway Realty Trust 228 Wareham St. Middleborough, MA 02346
(Name) (Address)

Date of Issuance 6/10/93

This Certificate is issued for work regulated by an Order of Conditions issued to Edgeway Realty Trust
dated 9/5/90 and issued by the Commission

- 1. It is hereby certified that the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.
- 2. It is hereby certified that only the following portions of the work regulated by the above-referenced Order of Conditions have been satisfactorily completed: (If the Certificate of Compliance does not include the entire project, specify what portions are included.)
- 3. It is hereby certified that the work regulated by the above-referenced Order of Conditions was never commenced. The Order of Conditions has lapsed and is therefore no longer valid. No future work subject to regulation under the Act may be commenced without filing a new Notice of Intent and receiving a new Order of Conditions.

(Leave Space Blank)

4. This certificate shall be recorded in the Registry of Deeds or the Land Court for the district in which the land is located. The Order was originally recorded on 5/10/93 (date) at the Registry of Plymouth, Book _____, Page _____.
5. The following conditions of the Order shall continue: (Set forth any conditions contained in the Final Order, such as maintenance or monitoring, which are to continue for a longer period.)

Issued by Middl Middleborough Conservation Commission

Signature(s) _____

[Signature] _____

[Signature] _____

[Signature] _____

A TRUE COPY ATTEST:
[Signature]
 TOWN CLERK

When issued by the Conservation Commission this Certificate must be signed by a majority of its members.

On this 10th day of June, 19 93, before me personally appeared Robert Balaschi to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

Rosemarie Cornea _____
 Notary Public My commission expires 1/22/99

Detach on dotted line and submit to the _____

To Middleborough Conservation Commission Issuing Authority

Please be advised that the Certificate of Compliance for the project at: Haskeil Circle

File Number SE220-407 has been recorded at the Registry of Plymouth

and has been noted in the chain of title of the affected property on _____, 19 _____

If recorded land, the instrument number, which identifies this transaction is _____

If registered land, the document number which identifies this transaction is _____

Signature _____ Applicant

**Edgeway Homeowner's Association, Inc
17 Wesley Circle Middleborough Ma, 02346**

Town of Middleborough
Rent Board
11 Nickerson Avenue
Middleborough, Ma 024346

January 6, 2014
Re: Application for Rent Adjustment

Honorable Board Members,

This letter accompanies an application for rent adjustment. This adjustment is requested upon purchase of the Edgeway community by the Homeowner's Association, made up of residents of the community. Purchase is anticipated in February of 2014.

The Edgeway Homeowner's Association, Inc. executed a Purchase and Sale Agreement with I.S.M. Leasing Inc. (a trustee of Edgeway Realty Trust) and Attorney James M. Burke (legal representative of the estate of Wayne Williams) in order to purchase the Edgeway Mobile Home Park. The Association has received approval for lender funding from ROC USA Capital, and is moving toward closing on the purchase. The Association is a Massachusetts non-profit corporation with the exclusive calling to serve its resident-members, and with 44 members of 52 homes (over 80% membership), and will be qualified as a "Resident Owned Park" once it assumes ownership of the Community.

As a part of that process, a meeting of all Association members was called on December 10, 2013. At this meeting, the members were thoroughly briefed on the physical findings in the community from the engineer, they then approved a first-year operating budget and approved the board to secure acquisition and construction loans. The meeting was properly noticed to all homeowners, members and non-members, and in keeping with our open enrolment policy, new members joined at the door and absentee ballots were allowed. Of 44 member homes, 38 voted, with purchase approved 38 to 0, or 86% in favor. The purchase of the community, at this rent and under the terms discussed here, is clearly the will of the residents.

The operating budget approved includes monthly transfers to a capital reserves account (a savings account for large systems/ structure repairs and replacement after an exhausted useable life), monthly mortgage payments, monthly estimated costs of running the community and business, and 10% above and beyond these predicted costs, as per the loan requirements from the lender. The resulting lot rent is \$370 or all residents, unanimously approved by all present. The resulting increase is \$20 to \$95. The board of directors is requesting that this Board approve such an increase in accordance with the residents' approval.

Questions from the Petition for Rent Adjustment:

1. Services, Operating and Maintenance increases: The community is going to be purchasing the on-site equipment and will have an employee provided by their management company to run the equipment on-site. The community will be hiring a management company to oversee financial bookkeeping and to aid in other day-to-day needs. The Association will be acquiring the community through mortgage financing. They will begin to support monthly mortgage payments in their first full month of owning the community following the closing date. Monthly mortgage payments will be \$5288 for the acquisition loan, and \$3,263 for their construction loan upon completion of the upgrades. The Association will be putting money into a reserve account monthly for capital repairs and replacements in the future: \$12,000 annually. The Association plans on bringing municipal water into the community in its first year of ownership. Currently they have potable water provided by an on-site well, cared for and operated as a public water source. This change will increase their water costs by approximately \$14,000 per year. Please see attached operating budget.
2. Deterioration above and beyond normal wear and tear: As the community infrastructure has suffered from deferred maintenance and construction on its roadways and driveways was never completed, yes. The Association will have an additional layer of asphalt brought in to cover all of the roadways and driveways in the community to complete this phase of initial construction. The Association will be repairing the community irrigation system, which was installed incorrectly and damaged when drainage repairs were made. Please see attached Capital Improvement Plan (CIP).
3. Ordinary repair, Replacement and Maintenance: The community will be having a common leach field installed to cure failed systems or those in imminent danger of failure. All houses will be connected to this system by the end of construction. Due to deferred maintenance and the end of the useful lives of these systems, this is vital. The Association will be making improvements to certain retaining walls, and additionally improving the buffer area along the back of the community, below 495 and planting trees along this area, as per town order. Please see attached CIP.
4. Sanitary Code, Building Code, Fire Code and Zoning Code compliance: The community is currently being operated without a license, which was pulled at the residents' urging due to the condition of infrastructure within the community. Residents are working tirelessly on plans to fix their infrastructure immediately upon purchase.
5. This community has not had rent increases in the past. The investor-owner raised rents on people new to the community. This community has not had vital infrastructure repairs made, nor essential elements of the initial construction completed. The Association, upon purchase, is prepared to update all infrastructure and complete the initial construction. Members have also voiced overwhelming support for raising their own rents to meet these costs. A purchase by the residents now is essential for maintaining below-market rents long-term and in so doing, to provide affordable housing options for Middleborough residents 55- and older.

The rent increase is a condition of our financing, and therefore, the purchase of the community.

Respectfully submitted,
Edgeway Homeowners Association, Board of Directors

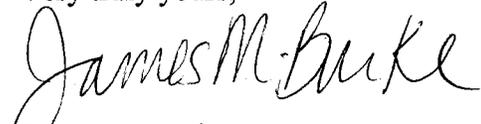
January 8, 2014

Town of Middleborough
Rent Board
10 Nickerson Avenue
Middleborough, MA 02346

Dear Sir or Madam:

This letter confirms that I.S.M. Leasing, Inc., as it is the Trustee of the Edgeway Realty Trust, wishes to authorize the application for a rent increase for the park submitted by the Edgeway Homeowners Association, Inc., and its agent, Andrew Danforth, CPA CSSB Director, New England Resident Owned Communities (NEROC) Program. This application is being submitted as part of the sale of the park pursuant to MGL c. 140 § 32R.

Very truly yours,



James M. Burke
President

I.S.M. Leasing, Inc.
Trustee of Edgeway Realty Trust

JMB/mh

Middleborough Rent Board
10 Nickerson Avenue
Middleborough, MA 02346

OWNER PETITION FOR RENT ADJUSTMENT

In the Matter of:
(Address of Property)

Edgeway
Name of Mobile Home Park

17 No. Wesley Circle Street, Middleborough City, 02346 ZIP

I HEREBY PETITION FOR ADJUSTMENT OF RENTS
AT THE ABOVE NAMED PROPERTY.

THIS PETITION, INCLUDING THE ACCOMPANYING
SCHEDULES AND ATTACHMENTS, SIGNED UNDER
THE PAINS AND PENALTIES OF PERJURY.

Board of Directors
Signature of Owner

1-7-14
Date

NAME OF OWNER:

Edgeway Homeowners Association, Inc.
FIRST LAST

ADDRESS OF OWNER:

17 NO. Wesley Circle STREET

Middleborough
CITY

Ma.
STATE

02346
ZIP

508-946-9550
TELEPHONE NO.

Mobile Home Park: Edgeway

Please answer all of these Questions:

1. Have there been any Increases or Decreases since _____?

Services: Yes No
Operating Expenses: Yes No
Maintenance Expenses: Yes No

If YES, describe in detail; attach additional sheets if necessary:

Community is being purchased by the residents

2. Has there been substantial deterioration of the mobile home accommodations, other than as the result of ordinary wear and tear since _____? Yes No

If YES, describe in detail; attach additional sheets if necessary:

3. Is there any ordinary Repair, Replacement and Maintenance presently necessary? Yes No If YES, please describe in detail; attach additional sheets as required):

please see attached

4. Do the affected mobile home accommodations comply with the State Sanitary Code, the Middleborough Building Code, Fire Code and Zoning Code? Yes No ? If NO, explain and attach additional sheets as required):

please see attached

5. State all arguments and reasons for seeking a Rent Increase; state any additional information that you think should be considered by the Middleborough Rent Board in setting the Rent. Attach additional sheets if necessary.

please see attached

		Owner Petition for Rent Adjustment					
		Rent Schedule					
Mobile Home Park:	Edgeway						
Tenant's	Date	Date	Current	Proposed	Proposed	Current	
Name	Lease	Rent Last	Monthly	Monthly	Total	Monthly	
	Expires	Set	Rent	Increase	Monthly	Town	
					Rent	Tax	
Brown			290	103	393	12	
Eubank			280	113	393	12	
Jackson			290	103	393	12	
Gorman			312	81	393	12	
Hayward			312	81	393	12	
Ciaglo			320	73	393	12	
Robertson			290	103	393	12	
McGann			290	103	393	12	
Malcom			280	113	393	12	
Murdoch			312	81	393	12	
Lynch			290	103	393	12	
Bernier			280	113	393	12	
Ritcey			290	103	393	12	
Clarke			290	103	393	12	
MacDonald			280	113	393	12	
Quagan			280	113	393	12	
Clenott			280	113	393	12	
Fickeert			312	81	393	12	
Perrotta			312	81	393	12	
Croce			312	81	393	12	
Robinson			290	103	393	12	
Oliviera			280	113	393	12	
Gray			312	81	393	12	
Roseman			280	113	393	12	
Crosby			280	113	393	12	
Parkinson			275	118	393	12	
Husted			280	113	393	12	
Palaiologos			280	113	393	12	
Landry			290	103	393	12	
Perry			320	73	393	12	
Dyer			290	103	393	12	
Short			290	103	393	12	
		Monthly Total	\$9,369	\$3,207	\$12,576	\$384	
		Yearly Total	\$112,428	\$38,484	\$150,912	\$4,608	

Operating Expenses:

RE Taxes	19,184		
Electricity & Gas (Security & Parking Lighting)	3,400		
Financial Statement Audit / Tax Prep.	2,100		
Insurance (CGL / Bond / Property)	4,124		
Legal	1,500		
Maintenance Supplies & Expenses	4,750		
Office Supplies & Expenses	1,000		
Management Fee (Off and On-Site) incl's employee	32,940		
Water	15,300		12,589
Trash:	2,800		
Federal & State Taxes (License & Permit Fees)	7,206		
Replacement Reserve	12,000		
Total Annual Operating Expenses / Per Occ Home:	\$ 106,304	\$ 2,084	44.27%

Monthly Revenue:

Monthly Lease Fee	\$ 393	\$ 370	
Number Of Sites		52	
Gross Site Fee Income	\$ 20,436		
Equipment Reimbursement from Twin Coach Estates	\$ 392	\$4700/ year	
Less: Vacancy/Collection Loss	(817)	4.0%	
Monthly Effective Gross Income:	\$ 20,011		

Annual Cash Flow Analysis:

Annual Effective Gross Income	\$ 240,127	
Less Annual Operating Expenses	106,304	
Less Annual Debt Service	122,040	
Surplus & Debt Coverage Ratio	\$ 11,783	1.10%

DRAFT. This is not a commitment of financing.
©2010 ROC USA, LLC. All rights reserved.

Property Conditions Report Dated:

Infrastructure Item	Quantity	Unit Cost	Capitalized Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
A. Water Distribution									
Study	0.5	\$ 20,000	\$ 10,000						
Connection	1	\$ 205,000	\$ 205,000						
Engineering	1	\$ 24,000	\$ 24,000						
B. Sewer Distribution									
Engineering	1	\$ 24,000	\$ 24,000						
Septic system replacement	27	\$ 16,740	\$ 451,980						
Back-up pump	1	\$ 15,000	\$ 15,000						
C. Drainage									
Various improvements	3	varies		\$ 35,000					
Detention Basin Improvements	1	\$ 65,000		\$ 65,000					
D. Roadways									
Repairs		varies		\$ 20,000					
Finish Coat: roads, curbs, sidewalks	Sq Ft	82000	2.25	184500					
E. Common Bldgs.									
Office- life safety concerns (fire alarms)	3	\$ 833		2499					
Office- Wheelchair access	2	\$ 3,750		\$ 7,500					
Single family home repairs	4	\$ 338	\$ 1,352						
F. Miscellaneous									
Tree Planting	106	\$ 311		\$ 32,966					
Buffer zone fence	1	\$ 17,000		\$ 17,000					
2 small retaining walls	2	\$ 4,000			\$ 8,000				
Slope Repairs	1	\$ 37,000		\$ 37,000					
Development									
Total Uninflated			\$ 731,332	\$ 401,465	\$ 8,000	\$ -	\$ -	\$ -	\$ -
Inflation Factor			1	1.025	1.051	1.077	1.10	1.13	1.16
Total Adj. for Inflation			\$ 731,332	\$ 411,502	\$ 8,408	\$ -	\$ -	\$ -	\$ -
Capital Funding									
Bond (140) Escrow (36K) house (170)			\$ 800,000						
Annual Reserve Funding			\$ 36,000	\$ 170,000	\$ 140,000				
Annual Cash Flow			\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000
Cumulative Reserve Funding			\$ 64,881	\$ 26,668	\$ 12,529	\$ 12,734	\$ 12,890	\$ 12,996	\$ 13,047
			\$ 76,881	\$ 38,668	\$ 24,529	\$ 24,734	\$ 24,890	\$ 24,996	\$ 25,047
						\$ 24,734	\$ 49,624	\$ 74,620	\$ 99,666

Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Total
								\$ 205,000
								\$ -



									\$ -
									\$ -
									\$ 20,000
									\$ -
									\$ -
									\$ 2,499
									\$ 7,500
									\$ 1,352
									\$ -
									\$ -
									\$ -
									\$ 32,966
									\$ 17,000
									\$ 8,000
									\$ 37,000
									\$ -
									\$ -
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 331,317
\$ 1.19	\$ 1.22	\$ 1.25	\$ 1.28	\$ 1.31	\$ 1.34	\$ 1.37	\$ 1.40		
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		

\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000	Refinance	\$ (23,738)
\$ 13,047	\$ 12,987	\$ -	\$ -	\$ -	\$ -	\$ 12,124	\$ 11,738		87% LTV
\$ 25,047	\$ 24,987	\$ 12,000	\$ 12,000	\$ 12,000	\$ 24,124	\$ 23,738			
\$ 124,713	\$ 149,700	\$ 161,700	\$ 12,000	\$ 12,000	\$ 24,124	\$ 23,738			



**TOWN OF MIDDLEBOROUGH
HEALTH DEPARTMENT**

Jeanne Spalding
Health Officer

PH: 508-946-2408
FX: 508-946-2321

MEMO

TO: Board of Selectmen

FROM: Jessica Gardner, Animal/Health Inspector

DATE: April 18, 2014

RE: Tobacco Sales violations

All of the businesses with a Tobacco and Nicotine Delivery permit in Middleborough were subjected to a compliance check for tobacco sales to a minor on March 31, 2014. Out of the twenty nine businesses currently licensed, two sold to the minor during the compliance check which is a violation of the Board of Health Regulation for "Tobacco and Nicotine Delivery Product Sales Permit Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products", Section 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;

The following businesses were found to be in violation:

- Trucchi's Supermarket
- Ron's Irving

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.

It is the Health Department's recommendation that the two businesses receive a fine of \$100. each and that the businesses have their tobacco permit suspended for 3-5 days at the Board's discretion. All tobacco and nicotine delivery products are to be removed from the site during the suspension period.

In addition, the Health Dept requests the businesses provide a written plan to mitigate future violations.

CRANBERRY CAPITAL
OF THE WORLD



Phone: 508-946-2405

Fax: 508-946-0058

Town of Middleborough

Massachusetts

Board of Selectmen

May 16, 2014

Ron's Irving
Attn: Kostas Geroukos
568 Brush Hill Road
Milton, MA 02186

Via: Certified Return-Receipt Requested
7009 3410 0001 1399 4542 & U.S. Mail

To Whom It May Concern:

On 3/31/14, during a routine compliance check to enforce the Town of Middleborough's Board of Health "Rules and Regulations Relative to the Sale, Vending, and Distribution of Tobacco within the Town of Middleboro", an employee at the 'Ron's Irving' sold a tobacco product to a minor.

Enclosed please find a copy of the Town's Tobacco Regulations. Please note the following:

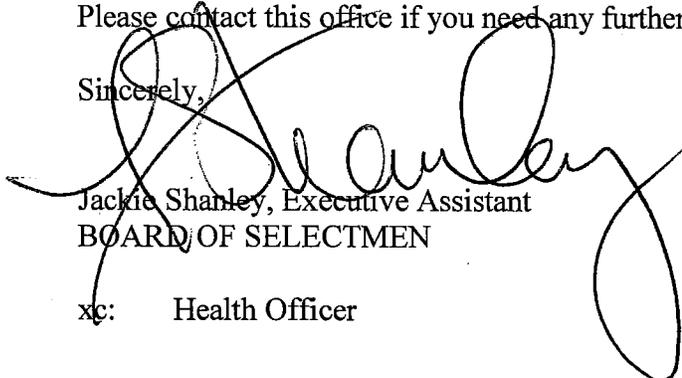
Section L. Violations:

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.

Your hearing in front of the Middleborough Board of Selectmen, acting as the Board of Health, has been scheduled for **Wednesday, May 28, 2014 at 7:30 PM** in the Selectmen's Meeting Room in the Town Hall, 10 Nickerson Avenue.

Please contact this office if you need any further information.

Sincerely,


Jackie Shanley, Executive Assistant
BOARD OF SELECTMEN

xc: Health Officer

MTCP ID: 01020

Tobacco Compliance Check Form

2011-2012

Section 1:

Establishment

Name: Ben's Irving
 Address: Wareham St.
 City: Middleborough Zip Code: _____
 Type of Establishment: Chain Independent Not Known

Survey Participants

ID of Purchaser: 203709
 Age: 15 16 17
 Sex: Male Female
 Name of Adult Supervisor: Tricia L.
 Time of Check: 7:49 am pm
 Date of Check: 3/28/14
 Day of the Week: Mon Tues Wed
 Thurs Fri Sat Sun

Style of Establishment (Check Only One):

<input type="checkbox"/> Convenience Store	<input type="checkbox"/> Grocery Store	<input type="checkbox"/> Bar
<input type="checkbox"/> Department Store	<input type="checkbox"/> Liquor Store	<input type="checkbox"/> Private Club (VFW, Legion, etc.)
<input type="checkbox"/> Gas Station Only	<input type="checkbox"/> Pharmacy/Drug Store	<input type="checkbox"/> Restaurant
<input checked="" type="checkbox"/> Gas Mini-Mart	<input type="checkbox"/> Other (bowling alley, golf club etc.)	<input type="checkbox"/> Tobacconist

Section 2:

Was Compliance Check completed? Yes No

If Yes please continue on to the next question, if No please skip this section and go to section 3.

How was tobacco marketed?

- Over-the-counter: youth asks the clerk for the product.
- From a vending machine with a lockout device.
- Other

Describe: _____

Was the Purchaser asked for ID? Yes No Was this an ID-based check? Yes No
 Was the Purchaser asked his/her age? Yes No
 Sex of Clerk: Male Female Approximate age of clerk: Teen Young Adult Adult Older Adult

Type of tobacco asked for: Cigarettes Brand of cigarettes asked for: Mariboro Newport Other: _____
 Chew/Dip Cigars Other _____ Brand: _____

Was the sale made? Yes No

If "Yes" how much did the product cost: \$ 9.88 Was a receipt given? Yes No

Purchaser made payment using: \$1 bills \$5 bill(s) \$5 bill and \$1 bills/ or change \$10 bill(s) \$20 bill change

blonde facial hair, short in height

Section 3:

If the youth did not enter the premises or did not attempt to purchase tobacco products please indicate why:

<input type="checkbox"/> Out of Business	<input type="checkbox"/> Temp. long term closure	<input type="checkbox"/> In operation, closed at time of visit	<input type="checkbox"/> Drive thru only
<input type="checkbox"/> Does not sell tobacco	<input type="checkbox"/> Unlocatable	<input type="checkbox"/> Unsafe to access	<input type="checkbox"/> Tobacco out of stock
<input type="checkbox"/> Inaccessible by youth	<input type="checkbox"/> Wholesale only/cartons	<input type="checkbox"/> Presence of police	<input type="checkbox"/> Permit Suspended
<input type="checkbox"/> Private club/personal residence	<input type="checkbox"/> Machine broken	<input type="checkbox"/> Youth inspector knows salesperson	<input type="checkbox"/> Other
		<input type="checkbox"/> "Don't sell" but tobacco seen in store/has permit	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>	
<p>1. Article Addressed to:</p> <p><i>KONS IRVING KOSTAS GERANTOS 508 BUSH HILL RD MILTON MA 02186</i></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p><i>2107 01 11/14</i></p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label) 7009 3410 0001 1399 4542</p>		
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>		

CRANBERRY CAPITAL
OF THE WORLD



Phone: 508-946-2405

Fax: 508-946-0058

Town of Middleborough

Massachusetts

Board of Selectmen

May 16, 2014

Trucchi's Supermarket
Attn: James Trucchi
1062 Broadway
Raynham, MA 02767

Via: Certified Return-Receipt Requested
7009 3410 0001 1399 4573 & U.S. Mail

To Whom It May Concern:

On 3/31/14, during a routine compliance check to enforce the Town of Middleborough's Board of Health "Rules and Regulations Relative to the Sale, Vending, and Distribution of Tobacco within the Town of Middleboro", an employee at 'Trucchi's Supermarket' sold a tobacco product to a minor.

Enclosed please find a copy of the Town's Tobacco Regulations. Please note the following:

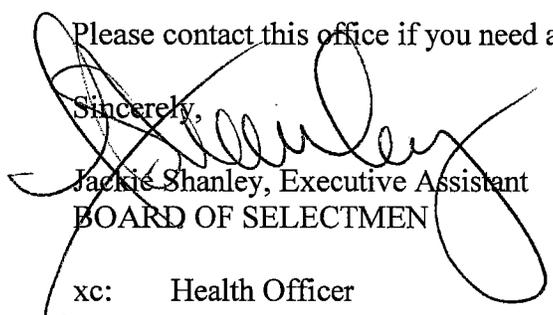
Section L. Violations:

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.

Your hearing in front of the Middleborough Board of Selectmen, acting as the Board of Health, has been scheduled for **Wednesday, May 28, 2014 at 7:40 PM** in the Selectmen's Meeting Room in the Town Hall, 10 Nickerson Avenue.

Please contact this office if you need any further information.

Sincerely,


Jackie Shanley, Executive Assistant
BOARD OF SELECTMEN

xc: Health Officer

MTCP ID: 01020

Tobacco Compliance Check Form

2011-2012

Section 1:

Establishment

Name: Trucchi
 Address: West Grove St
 City: Middleborough Zip Code: _____
 Type of Establishment: Chain Independent Not Known

Survey Participants

ID of Purchaser: 203709
 Age: 15 16 17
 Sex: Male Female
 Name of Adult Supervisor: Trucchi
 Time of Check: 6:57 am pm
 Date of Check: 3/28/14
 Day of the Week: Mon Tues Wed
 Thurs Fri Sat Sun

Style of Establishment (Check Only One):

<input type="checkbox"/> Convenience Store	<input checked="" type="checkbox"/> Grocery Store	<input type="checkbox"/> Bar
<input type="checkbox"/> Department Store	<input type="checkbox"/> Liquor Store	<input type="checkbox"/> Private Club (VFW, Legion, etc.)
<input type="checkbox"/> Gas Station Only	<input type="checkbox"/> Pharmacy/Drug Store	<input type="checkbox"/> Restaurant
<input type="checkbox"/> Gas Mini-Mart	<input type="checkbox"/> Other (bowling alley, golf club etc.)	<input type="checkbox"/> Tobacconist

Section 2:

Was Compliance Check completed? Yes No

If Yes please continue on to the next question, if No please skip this section and go to section 3.

How was tobacco marketed?

- Over-the-counter: youth asks the clerk for the product.
- From a vending machine with a lockout device.
- Other

Describe: _____

Was the Purchaser asked for ID? Yes No
 Was the Purchaser asked his/her age? Yes No

Was this an ID-based check? Yes No

name tag: Sam

Sex of Clerk: Male Female Approximate age of clerk: Teen Young Adult Adult Older Adult

Type of tobacco asked for: Cigarettes Brand of cigarettes asked for: Marlboro Newport Other: _____
 Chew/Dip Cigars Other _____ Brand: _____

Was the sale made? Yes No

If "Yes" how much did the product cost: \$ 10.26 Was a receipt given? Yes No

Purchaser made payment using: \$1 bills \$5 bill(s) \$5 bill and \$1 bills/or change \$10 bill(s) \$20 bill change

Section 3:

If the youth did not enter the premises or did not attempt to purchase tobacco products please indicate why:

<input type="checkbox"/> Out of Business	<input type="checkbox"/> Temp. long term closure	<input type="checkbox"/> In operation, closed at time of visit	<input type="checkbox"/> Drive thru only
<input type="checkbox"/> Does not sell tobacco	<input type="checkbox"/> Unlocatable	<input type="checkbox"/> Unsafe to access	<input type="checkbox"/> Tobacco out of stock
<input type="checkbox"/> Inaccessible by youth	<input type="checkbox"/> Wholesale only/cartons	<input type="checkbox"/> Presence of police	<input type="checkbox"/> Permit Suspended
<input type="checkbox"/> Private club/personal residence	<input type="checkbox"/> Machine broken	<input type="checkbox"/> Youth inspector knows salesperson	<input type="checkbox"/> Other
		<input type="checkbox"/> "Don't sell" but tobacco seen in store/has permit	

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

FRUCCHIS Supermarket
James FRUCCHI
1062 Broadway
Rutherford NJ 07070

2. Article Number
(Transfer from service label)

7009 3410 0001 1399 4573

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 JE Aucon Addressee

B. Received by (Printed Name) Date of Delivery
JE Aucon

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

**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 30th 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.