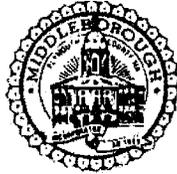


HEARINGS, MEETINGS, LICENSES

7-27-15



The Board of Selectmen, acting in its capacity as the Board of Health, will hold a public hearing in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday, June 29, 2015 at 7:30 PM, for the purpose of adopting Body Piercing Regulations for the Town of Middleborough. Anyone wishing to be heard on this matter should appear at the time and place designated.

Allin Frawley
Leilani Dalpe
John M. Knowlton
Diane Stewart
Stephen J. McKinnon
BOARD OF SELECTMEN

Publish: June 18 & 25, 2015

Private party responsible for payment

Town responsible for payment

Please provide Selectmen's office with amount due.

Advertiser #300074

Continued to 7.13.15 @ 7:20 pm
Continued to 7.27.15 @ 7:20 pm

TOWN OF MIDDLEBOROUGH- BOARD OF HEALTH

BODY PIERCING REGULATIONS

RATIONALE: The Town of Middleborough is promulgating rules and regulations which provide minimum requirements to be met by any person performing body piercing upon any individual and for any establishment where body piercing is performed. These requirements shall include, but not be limited to, general sanitation of premises wherein body piercing is to be performed and sterilization of instruments. These rules and regulations are necessary to protect the public's health by preventing diseases, specifically including, but not limited to transmission of hepatitis B and/or human immunodeficiency virus.

In addition, these rules and regulations shall establish procedures for registration with the Middleborough Board of Health of all persons performing body piercing, for the requirement of minimal training standards for the prevention of disease transmission and for knowledge of anatomy and physiology, for regular inspection of premises wherein body piercing is performed, and for revocation of the registration of any person or establishment deemed in violation of the rules and regulations promulgated under this section. An annual, non-transferable registration fee set the Town of Middleborough shall be paid by any person or establishment registered under this section.

SECTION 1- DEFINITION

1. "Body piercing" shall mean any method of inserting a needle into the body to place jewelry in the body, other than in the earlobe, to place jewelry in the perforation produced by the needle. Establishments and/or individuals involved in the piercing of earlobes (only) using approved ear piercing guns are subject only to the General Rules and Regulations found under Section 2 of this ordinance.
2. "Body Piercer" shall mean any person who performs piercing of any part of body other than the earlobe which is pierced by use of an appropriate piercing gun.
3. "Board of Health Permit for Body Piercing" means issuance of a written Board of Health permit authorizing the person named therein to engage in the work of body piercing.
4. Operator shall mean any person who owns, controls, operates, conducts or manages any piercing establishment, whether actually performing the work of piercing or not.

5. "Minor" shall mean any person under the age of eighteen (18).
6. "Piercing Studio" shall mean any room or space where piercing is practiced or where the business of piercing is conducted or any part thereof.
7. "Antibacterial Solution" means any solution used to retard the growth of bacteria approved for application to human skin and includes all products so labeled.
8. "Germicidal Solution" means any solution which destroys germs, and is so labeled.
9. "Sterilization" means holding in an autoclave for thirty (30) minutes, at twenty (20) pounds pressure, at a temperature of 275 degrees Fahrenheit.
10. "Sanitary" means clean and free of agents of infection or disease.
11. "Sanitized" means effective bacterial treatment by a process that provides sufficient concentration of chemicals for enough time to reduce the bacteria count including pathogens to a safe level on equipment.
12. "BOH" means the Middleborough Board of Health.

SECTION 2 - GENERAL RULES AND REGULATIONS REGARDING BODY PIERCING

1. No minors shall receive body piercing, ("minor" shall mean any person under the age of eighteen years), unless accompanied by a parent or legal guardian who has signed a consent form.
2. No piercing of the genitalia shall be allowed.
3. No piercing of animals shall be allowed in piercing studios.
4. Pre-procedural consultation to discuss body piercing, its risks and potential complications shall be required with each client. An informational pamphlet approved by the Health department and an informed consent form shall be signed by all clients. Clients shall be supplied a copy of the consent form and the consent form shall be kept on file by the body piercer. Clients should be told to consult with their physician regarding any medical condition which could be exacerbated by the piercing procedures (i.e., hemophilia, open sores, etc.).

5. Patrons who admit to or are obviously under the influence of alcohol or other judgement altering drugs shall not receive a body piercing.
6. Body piercers shall not be under the influence of any substance, legal or illegal which might impair their judgement or ability to properly perform body piercing.
7. Patrons shall receive verbal and written instructions on the cleaning, use of antiseptics and other specific instructions for each piercing after the piercing, including the signs and symptoms of complications.
8. Appropriate disinfectants must be used to disinfect the surface of the skin in the area to be pierced, prior to piercing.
9. Infections and adverse reactions of any kind suspected from the application of piercing, which become known to the body piercer, shall be reported to the Middleborough Board of Health within 24 hours and the patron referred to a physician for examination.
10. Body piercers who receive needle stick injuries and/or any potential exposure to blood-borne pathogens on the job shall follow OSHA guidelines on the reporting and follow up on needle stick injuries. OSHA guidelines for needle stick follow up shall be posted in employee area. (Code of Federal Regulations 29 CFR 1910.1030 (f)).
11. It is required that body piercers receive the series of Hepatitis vaccinations and tetanus doses or booster shot.
12. The gun used for the piercing of ear lobes only must be disinfected with an EPA-approved disinfectant such as madicide or a similar product.

Failure to comply with any of the above regulations may result in immediate revocation of the permit to operate.

SECTION 3 - BODY PIERCER REGISTRATION.

1. No person, or body piercer shall perform body piercing, display a sign or in any other way advertise or purport to be a body piercer unless that person holds a valid permit with the Middleborough Board of Health.

2. An applicant for registration or renewal shall pay a fee as established by the Middleborough Board of Health and shall show to the satisfaction of the Middleborough Health Department that the applicant:

a. Has complied with the applicable rules on the Middleborough Board of Health.

b. Upon application, has provided evidence in the form of a drivers license/state Identification card or federal identification card that applicant is not less than 18 years of age. A photocopy of the I.D. shall be on file.

c. Upon application, has signed a form consenting to abide by the rules and regulations and recommended procedures on the prevention of disease transmission in body piercing, sanitation, sterilization, handling of infections, universal body fluid precautions) sharp and biologic waste disposal and wound care as stated in the Federal Register of EPA Rules and Regulations on Bloodborne Pathogens.

d. Upon application, shall notify the Middleborough Board of Health in writing of the regular address of the place where the person performs or intends to perform body piercing and shall keep the permit conspicuously posted in the place of business at all times. Body piercers shall operated only out of facilities licensed to perform body piercing. Body piercers shall be required to demonstrate proper sanitary procedures and to develop and submit their policy on infection control to the Middleborough Board of Health.

SECTION 4- MINIMAL TRAINING

Body piercers and their employees must show evidence or current certification and completing of courses in the first two areas) prior to receipt of a permit.

1. Basic Training in First Aid and advanced CPR as well as proof of attendance at required renewal courses.

2. Completion of a course on Prevention of Disease Transmission and Blood borne Pathogens, conducted by an instructor trained and sufficiently knowledgeable to teach this OSHA course. Such knowledge shall include the requirements of standards 29 CFR 19010.1030.
3. Completion of human anatomy and Physiology College level 1 and 2.
4. Body piercing permits shall expire on December 31 of each year.
5. The place of business shall meet all other department requirements.
6. Liability Insurance is required for Body Piercers.
7. Body piercers must present evidence of at least one year of apprenticeship experience with no history of their piercing causing short or long term health problems. Apprentices must register with the Middleborough Health Department when beginning the apprenticeship and comply with 1 through 3
8. Apprentices must apply for an apprenticeship permit from the Board of Health

SECTION 5- FACILITIES AND EQUIPMENT

1. FACILITY

- a. A body piercing facility shall be inspected and approved by the Middleborough Health Department.
- b. Facilities must be located in area zoned for business.
- c. No person is to operate a body piercing facility without first obtaining a permit from the Board of Health
- d. Facility design, furniture, lighting, plumbing, water and sewage must be in accordance with local ordinances.
- e. With the exception of service animals (e.g. guide dogs); no animals shall be allowed on the premises.
- f. The floor and all other surfaces shall be, at all times maintained in a clean condition. The walls and ceilings shall be kept clean in good repair at all times. Light fixtures, decorative materials and similar equipment attached to the walls or ceilings shall be kept clean.

g. Adequate ventilation (such as air conditioning, etc.) to keep the area dry and air circulating should be used. ("Adequate Ventilation" shall mean a free and unrestricted circulation of fresh air throughout the body piercing studio and the expulsion of foul or stagnant air.) The use of a H.E.P.A. ventilation system is highly recommended.

h; Convenient, clean, and sanitary toilet and hand washing facilities shall be made accessible to customers. A sign shall be posted in the bathroom which forbids insertion or handling or piercing/jewelry. The plumbing fixtures and toilet room shall be maintained in a sanitary manner and in good repair. Single service hand towels or mechanical means for hand drying shall be provided.

i. In accordance with state regulations proper biologic waste and sharp disposal of single-use items and needles exposed to body fluids shall be required. Only medical grade sharps containers that are puncture-resistant, with tight-fitting-lids acceptable.

j. Body piercers shall be equipped with appropriate sterilizing equipment. (i.e. a working steam autoclave). Autoclaves must be spore tested monthly by independent laboratories to insure they are working adequately.

k. Body piercers shall be equipped with appropriate cleansing equipment.

2. WORK AREA

a. Each body piercing studio shall have a separate work area not used for any other purpose. No one shall be pierced at any other location in the studio other than the work area.

c. No customer should be allowed to perform their own piercing/insertions anywhere on the premises.

d. Work areas shall not be used as a corridor for access to other rooms.

e. The area where body piercing is to be applied must be performed in a separate room.

f. The floors, chairs and table tops where body piercing equipment and body piercing work is done should be non-porous. Carpet is not permitted as a floor covering in the work area where the body piercing is applied.

g. The work area should be well lighted. Work areas shall have at least fifty (50) foot candles of light measured at the height of the work table.

h. Facilities shall be equipped with sinks and basins with hot and cold running water in the room for the exclusive use of the piercers for washing their hands and preparing their clients for body piercing.

- i. A covered waste receptacle with disposable liner bags shall be located in the work area.
- j. No person shall smoke, consume any food or drink in the work area.
- k. No other activities, (such as hair styling, etc.) shall be performed in any facility designated for body piercing.

SECTION 6- OPERATION PROCEDURES FOR FACILITIES~ BODY PIERCERS

1. SANITARY PROCEDURES BEFORE BODY PIERCING

Body Piercers Shall:

- a. Complete all business transactions.
- b. Complete client consent forms and provide a copy to the client with informational pamphlet.

Regarding Piercers Jewelry:

- a. Client and piercer should have appropriate size and quality jewelry chosen before the procedure begins.
- b. Only appropriate jewelry should be used in piercing. Appropriate jewelry is made of implant grade, high quality surgical stainless steel (316 E series), solid 14k or 18k gold, niobium) titanium, platinum. Appropriate jewelry has no nicks, scratches, or irregular surfaces which might endanger the tissues.
- c. Ear studs or other jewelry designed for earlobe piercing are not appropriate jewelry for other body parts and must not be used by piercers.

2. HAND WASHING & GENERAL HEALTH

Before working on each patron, the body piercer shall:

- a. Inspect hands for small cuts and abrasions.
- b. Refrain from body piercing or handling equipment if they have open sores, weeping dermatitis or lesions on hands or arms until the condition has cleared.
- c. Refrain from body piercing until the condition has cleared, if they have a cold, flu or other communicable disease.
- d. Wash hands, wrists and up to elbows with antibacterial solution.

e. Dry hands thoroughly with single use disposable towel such as a paper towel or air dry under a heat dryer.

f. Put on medical-grade latex (or its equivalent) gloves.

SECTION 7- BODY PIERCING PROCEDURES

Body Piercers Shall:

a. Set up equipment in front of client.

b. Sealed autoclave bags containing any equipment required to be sterile, shall be opened in front of the client, and the autoclave bag discarded.

c. All jewelry contaminated with only airborne pathogens (not previously worn or contaminated) should be disinfected with a non-hazardous hard-surface disinfectant approved by the E.P.A. All jewelry contaminated or potentially contaminated with blood borne pathogens (previously worn by another person) should be autoclaved, stored in sterile indicator bags, sealed and dated.

d. All needles used in piercing must be pre-sterilized, used on one person, in one sitting, for single piercing and immediately disposed of in a medical sharps container.

e. All forceps, tubes, etc. must be pre-sterilized stored in sterile indicator bags, sealed and dated, used on one person, in one sitting. After one such use, they must be autoclaved and stored in sterile indicator bags, sealed and dated.

SECTION 8- DISINFECTION ROUTINE

Body Piercers Shall:

a. Put on fresh gloves for disinfection routine.

b. Move in such manner to avoid re-contamination of surfaces.

c. Discard disposable items and remove from areas.

d. Remove plastic barrier film (if used) and disinfect surface areas, drawer pulls, cabinetry, telephones, lamps, chairs) sinks, ultrasonic tanks, tables, chairs, floor area and any other surfaces that might have become contaminated.

e. Dispose of single use (disposable) lap cloths.

f. Remove gloves, wash hands and discard gloves.

- g. Double bag or use bio-hazard bags and discard materials after each client.
- h. Discard materials in medically appropriate manner.
- i. All reusable non-sterilizable implements such as marking pen should be nonporous and disinfected after each use with an EPA approved hard-surface disinfection liquid. Non-spray wipes for surfaces and liquids for soaking jewelry are preferred over spray disinfectants which may disperse pathogens into the air.
- j. Cleansing with ultrasonic cleaners should be the rule for removal of bacitracin or other triple antibiotic solutions, blood and other particles from a used contaminated implement (i.e. jewelry, forceps, insertion tapers, and pliers) followed by steam autoclave.
- k. Steam autoclave must be used on all equipment that may come in contact with the client or the jewelry (i.e. receiving tubes) rubber bands, insertion tapers, forceps, files, gauge wheels, pliers, etc.). Equipment shall be bagged, dated and sealed and stored in a non-porous, dark dry cool place such as a medical Credenza) etc. Spore indicators shall be used with each load to ensure spore eradication. Instruments shall be autoclaved at a temperature of 273 degrees F under pressure of 20 PSI for 30 minutes from start. Autoclaves shall be spore tested by independent laboratories at least once every month to induce efficacy. Immersion in cold germicidal solutions provides incomplete sterilization and is inappropriate.
- l. Appropriate ear piercing guns should only be used for piercing ear lobes and shall not be used for piercing any other body part.
- m. Iodine, antiseptics and other ointments used shall be applied with single use applicators. Applicators that have touched a client once may not be used to retrieve antiseptics, iodine, etc. from containers and shall be disposed of after single use.

DISPOSAL OF WASTE IN ACCORDANCE WITH INFECTIOUS WASTE REGULATIONS

- 1. Bar setups, piercing needles) razor blades or other sharp instruments which are not to be sterilized shall be disposed of in medically approved sharp containers that are puncture resistant and have tight fitting lids.
- 2. Containers of sharp wastes shall be sent to a facility where they are either incinerated or otherwise rendered nonhazardous.

3. Disposable waste shall be placed in easily cleanable, closed containers with tight fitting lids, to prevent leakage or spoilage.
4. Waste containers shall be kept closed when not in use.
5. Disposable waste shall be handled, stored, and disposed of to minimize direct exposure of personnel to waste materials.
6. An appropriate medical waste disposal firm shall be contracted to remove all waste.

SECTION 8- MOBILE ESTABLISHMENTS:

1. Mobile piercing studios shall not be allowed to operate in the Town of Middleborough.

SECTION 9- FEES

1. A permit fee in the amount established by the Town of Middleborough shall be required of all persons registering as:
 - body piercers (see application)
 - body piercer apprentices (see application)
 - body piercing establishments (see application)
2. Payment of fees shall be made at the Town Middleborough of Health Department, 20 Centre Street, Middleborough, MA.02346 CHECK MADE PAYABLE TO THE TOWN OF MIDDLEBOROUGH.

SECTION 10- ENFORCEMENT PROCEDURES:

The body piercers permit to operate shall be suspended immediately upon notice to the holder (without a hearing) when the Middleborough Health Department has reason to believe that an imminent health hazard exists.

1. In all other instances of violation of the provisions of this administrative regulation the Middleborough Board of Health shall serve the permit holder a written notice specifying the violation and afford the registrant or certificate holder a reasonable opportunity to correct the same.

- a. Whenever an applicant has failed to comply with any written notice issued under the provisions of this administrative regulation the body piercing permit shall be suspended.
- b. Any person whose permit has been suspended may make a request in writing for public hearing before the Board of Health
- c. For serious or repeated violations of any of the requirements of this administrative regulation or for interference with the Middleborough Health Department in the performance of its duties, or for persons found guilty of any crime related to body piercing, the body piercers permit may be permanently revoked after a public hearing before the Middleborough Board of Health.
- d. Every person who shall perform body piercing without a permit may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation, or offense brought in such a manner, shall be three hundred dollars.
- e. Body piercing of minors - Every person who shall perform body piercing on any minor under the age of eighteen, (18) without the written consent and presence of a parent or legal guardian for parts other than the genitalia areas of minors which shall not be pierced, may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation, or offense brought in such a manner, shall be three hundred dollars.

Section 17.0 Retention of Records

17.1 The owner of a body piercing parlor/shop shall maintain proper records for each patron. A record of each patron shall include:

- a) The date on which he/she was pierced;
- b) his/her name, address, telephone number and age;
- D) photo identification as proof of age (e. g., driver's license, military identification), a copy of which shall be maintained for each patron;
- c) The location and design of the piercing; and,
- D) The name of the body piercer.

17.2 These records shall be permanently entered in a book with

pre-numbered pages, kept solely for this purpose. Records that cannot be physically stored in this pre-numbered book (e. g., copies of proof of age as required in section 17.1(b)(i)above)may be stored elsewhere in the facility. These records shall be available for inspection by the Department of Health. These records shall be maintained for a minimum of five (5) years after the date on which the patron was tattooed.

Section 18.0 Denial, Suspension or Revocation of Registration

18.1 The Health Department is authorized to deny an application, revoke or suspend a registration for failure of an applicant or registrant to comply with the provisions of the rules and regulations herein.

18.2 Whenever an action shall be proposed to deny an application, revoke or suspend a registration, the Health Department shall notify the person by certified mail, setting forth the reason(s) for the proposed action.

18.3 The applicant or registrant shall be given an opportunity for public hearing before the Middleborough Board of Health.

18.4 If it is determined that a person is violating any provisions of the rules and regulations herein, the Health Dept. may issue an order to secure compliance.

Section 19.0 Deficiencies & Plans of Correction

19.1 The Health Dept. shall notify the governing body or other legal authority of a facility of violations of these rules and regulations through a notice of deficiencies which shall be forwarded to the facility within fifteen (15) days of inspection of the facility. If the Health Dept. determines that immediate action is necessary to protect the health, welfare, or safety of the public, she/he may issue an immediate compliance order.

19.2 A facility that has received a notice of deficiencies shall submit a plan of correction to the licensing agency within fifteen (15) days of the date of the notice of deficiencies. The plan of correction shall detail any requests for variances as well as document the reasons therefore.

19.3 The licensing agency shall be required to approve or reject the plan of correction submitted by a facility in accordance with section 19.2 (above) within fifteen (15) days of receipt of the plan of correction.

19.4 If the licensing agency rejects the plan of correction, or if the facility does not provide a plan of correction within the fifteen (15)day period stipulated in section 19.2 above, or if a

facility whose plan of correction has been approved by the licensing agency fails to execute its plan within a reasonable time; the licensing agency may invoke the sanctions referenced in section 18.0 herein. 19.5 If the facility is aggrieved by the sanctions of the licensing agency, the facility may appeal the decision and request a public hearing.

SECTION 11 - SEVERABILITY

If any section, paragraph, sentences, clause, phrase or word of this ordinance shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of these regulations~

SECTION 12 Effective Date: _____

TOWN OF MIDDLEBOROUGH

BODY PIERCING APPLICATION

Body Piercer () \$200.00
Body Piercer Apprentice () \$100.00
Body Piercing Facility () \$200.00

Date: _____

Permit#: _____

New Application: ()

Renewal: ()

1. Name: _____
(Last Name) (First Name) (Middle)

2. Date of Birth: _____
(Month) (Day) (Year)

3. Identification Card:
State Driver's License: _____

State Identification Card: _____

4. Facility Name: _____

5. Facility Address: _____

6. Facility Telephone: _____

7. Provide the following:

A. Evidence of course completion in Preventing Disease Transmission. (Applicant must show a dated certificate of completion from either American Red Cross or Association.

B. Evidence of current certification in First Aid/CPR. (Applicant must show a dated certificate of completion of a course in First Aid/CPR which demonstrates the required course was completed within the last two (2) years).

C. Proof of completion of a course in Anatomy and Physiology

D. Proof of one (1) year of apprenticeship training.

APPLICANT/BODY PIERCER STATEMENT OF CONSENT:

I understand that this registration expires on June 30th of this year. I understand that any notice required to be given by the Middleborough Board of Health to me may be given by mailing the notice to the address of the last place of business facility address) of which I have notified the Middleborough Board of Health. I have received a copy of the Middleborough Board of Health's regulations and recommended infection control procedures regarding body piercing. I agree to abide by these regulations and procedures. I agree to work only out of facilities that are in compliance with Middleborough Board of Health requirements. I agree to post the following valid and updated documents conspicuously in my place of business at all times:

Certificate of Registration for all body piercers working in the facility,

A signed copy of an agreement to comply with Middleborough Board of Health Rules and Regulations for Body Piercing, which contains the Recommended Procedures and Infection Control Practices for Body Piercing.

A signed copy of compliance with Middleborough Board of Health Recommended Procedures and Infection Control Practices for Body Piercing.

I hereby certify, under pains and penalties of perjury, that to the best of my knowledge, the information provided on this application is complete and accurate and not misrepresented in any way.

Date

Signature

Name and Title (print)

Office Use Only: Approved Effective Date: _____ Registration
Fee Paid: _____

Disapproved, Comment: _____

CLIENT'S CONSENT FORM

A client consent form for receiving body piercing MUST contain at least the following information and must be kept on file by the Body Piercer for a minimum of three years.

Clients Name _____

Record of Clients Form of Identification NOTE: for your own protection, make a photocopy of both sides of the identification card). Photo ID only. IF YOU HAVE ANY DOUBTS ABOUT THE AUTHENTICITY OF THE IDENTIFICATION, DO NOT PIERCE THE CLIENT!

Signed statements from the client which include the following:

I certify that I am at least 18 years of age and have provided legitimate identification to validate this.

I am not currently under the influence of alcohol or drugs that might impair my judgement.

I have:

- reviewed ordinance section on sanitary procedures for body piercing,
- been informed of the risks of receiving body piercing, including the possibility of allergic reaction to jewelry,
- been given a care/instruction sheet on how to take care of my body piercing,
- been informed of procedures for reporting any complications with the piercing to the body piercer and to medical personnel.

Client's Signature _____

Jacqueline Shanley

From: Robert G. Nunes
Sent: Tuesday, July 21, 2015 11:14 AM
To: 'decas.murray.decas@verizon.net'
Cc: Robert Whalen; Ruth Geoffroy; Tammy Mendes; Jeff Stevens; Patricia Cassidy; Jacqueline Shanley
Subject: RE: draft solar by-law

Thank you Dan.

Jackie, Please forward to the BOS for Monday's meeting.

Bob

From: decas.murray.decas@verizon.net [mailto:decas.murray.decas@verizon.net]
Sent: Tuesday, July 21, 2015 11:11 AM
To: Robert G. Nunes
Cc: Robert Whalen; Ruth Geoffroy; Tammy Mendes; Jeff Stevens; Patricia Cassidy
Subject: draft solar by-law

July 21, 2015

Robert G. Nunes, Town Manager (*via email*)

RE: Draft Solar By-law

Bob:

After review of the referenced, I recommend consideration of a zoning amendment with a different approach. I think the new approach could have the following features:

- Solar energy systems to be allowed in specified zoning districts by special permit; the use could be allowed in some district(s) as of right;
- The special permit granting authority to be the Board of Appeals;
- There could be specific requirements for the use such as setbacks and buffer-screening and removal of facilities no longer in use; also there could be a pre-special permit restriction on clearing or cutting vegetation on properties which are to be used for solar installations similar to that in another Town by-law;
- No site plan review process to be required; and
- Appropriate, relevant definitions to be added to the definitions section of the by-law.

I think the draft by-law is unnecessarily complex. I think it desirable that the subject should be regulated by a simple by-law with a minimum of technical considerations and requirements consistent with public health, safety and welfare.

Very truly yours,

Daniel F. Murray

Town Counsel

DFM/s

12-162

cc: Robert J. Whalen, Building Commissioner
Ruth Geoffroy, Planning Director
Board of Appeals
Middleborough Green Energy Committee (c/o Jeff Stevens)
Patricia Cassady, Conservation Agent

Jacqueline Shanley

From: Patricia Cassady
Sent: Tuesday, July 21, 2015 11:03 AM
To: Robert G. Nunes
Cc: Caroline R. LaCroix; Jacqueline Shanley
Subject: Solar Bylaw - one more suggestion

Hi Bob,

The Conservation Commission had one more suggestion regarding the Solar Bylaw. When an area is within the Natural Heritage & Endangered Species Program mapping, Fish & Wildlife has wanted the fencing to be 6 inches off the ground for wildlife movement.

Thanks,
Tricia

Patricia J. Cassady, Agent
For the Middleborough Conservation Commission
20 Centre Street, 2nd Floor
Middleborough, MA 02346
Ph: 508-946-2406/Fax: 508-946-2309
E-mail: pcssdy@middleborough.com



Town of Middleborough

CONSERVATION COMMISSION

20 CENTRE STREET
MIDDLEBOROUGH, MASSACHUSETTS 02346

PHONE: 1-508-946-2406
FAX: 1-508-946-2309

MEMORANDUM

TO: Jeff Stevens, Co-chair, Middleborough Green Energy Committee

FROM: Patricia J. Cassidy, Conservation Agent 

DATE: June 30, 2015

RE: Comments on the Draft "Large Photovoltaic Array By-Law"

Attached you will find the marked up draft bylaw that was submitted to the Conservation Department on June 16, 2015 to review. I have marked up the draft relative to what the Conservation Commission regulates under the Massachusetts Wetlands Protection Act under M.G.L. Ch. 131, Sec. 40 and regulations 310 CMR 10.00. I have pointed out too that some items are under other departments or agencies purview.

I have also suggested through the document that Middleboro be spelled Middleborough.

If you have any questions regarding my comments don't hesitate to contact me at 508-946-2406 or via e-mail at pcssdy@middleborough.com

Thank you for working on this since the Commission has now reviewed 4 of these types of projects we feel it is critical to have this bylaw be part of the process in permitting photovoltaic arrays.

pjc

FILE

Dear Middleboro Boards :

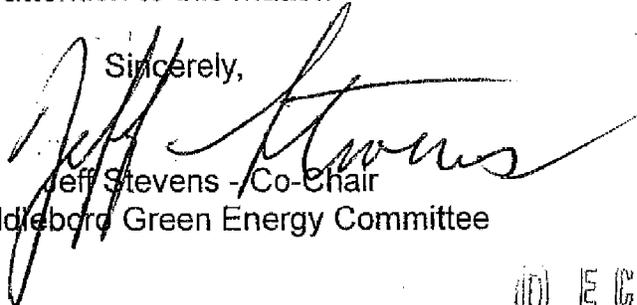
The Green Energy Committee has been working on a "Large Photovoltaic Array By-Law" during the last two months. Most communities in our area have adopted such a by-law. Our town has already been approached by land owners and companies that plan to install solar panels on open plots on private property in Middleboro. Without a local by-law, our community has little if any control over these systems.

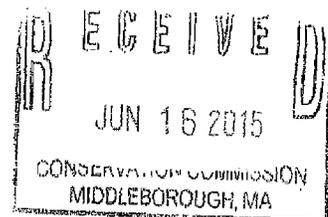
The Commonwealth has supported solar generation with what is called "as-of-right siting" that allows development of such arrays with little regulation, but it does allow communities to establish "reasonable" restrictions in the form of local by-law. The Green Energy Committee has reviewed the state suggested form for such a by-law as well as a number of such by-laws that neighboring communities have instituted in recent years. All of these relate to large scale ground mounted photovoltaic systems, not small roof or ground mounted panels that a home owner might have installed. The GEC has also consulted with the Middleboro Gas and Electric Department on this matter.

Please review the attached draft of the Middleboro Large Scale Solar Energy System By-Law, and kindly let us know of any changes your group might suggest by August 1. We hope to make any needed adjustments to this proposal by mid August . Hopefully, a public hearing can be held in time to have this proposal presented at the fall Town Meeting.

Thank you for your attention to this matter.

Sincerely,


Jeff Stevens - Co-Chair
Middleboro Green Energy Committee



FILE

Proposed Bylaw

LARGE SCALE SOLAR ENERGY SYSTEMS

Purpose

The purpose of this section is to facilitate the creation or expansion of any large-scale, ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, maintenance and modification of such installations that address public safety, minimize impacts on environmental, scenic, natural and historic resources and to assure an adequate plan for the eventual decommissioning of such installations.

Definition of Terms

1)As-of-right Siting

As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-Right development will be subject to Site Plan Review pursuant to Article (when adopted) of the Middleboro Zoning Bylaws.

2)Building Inspector

The Building Inspector or designee charged with enforcing this bylaw.

3)Building Permit

A construction permit issued by the Building Inspector once the project plan is deemed consistent with local, state, and federal regulations that apply to the project and has received all required approvals from pertinent town officials and boards.

4)Designated Locations:

Large-scale, ground-mounted solar photovoltaic installations may be sited in Residential Zones A, B and Rural; General Use Zones, Commercial and Industrial Zones in accordance with the regulations stated in this bylaw for the applicable zone.

The locations or zones designated by the Town of Middleboro where ground-mounted large scale solar photovoltaic installations may be sited as-of-right are subject to Planning Board review.

5)Large Scale Ground-Mounted Solar Photovoltaic Installation

A solar powered photovoltaic generation system that is structurally mounted on the ground (not roof mounted) and has a nameplate capacity of **50 kW** or greater.

6)Nameplate Capacity

The maximum rated output of the electric power production of the photovoltaic system stated in kWDC.

7)Site Plan Review

A review performed by the Middleborough Planning Board prior to approval of any proposed large scale ground mounted solar photovoltaic installation to assess the plan's compliance with this bylaw and all Town of Middleborough regulations that apply to such installations.

8)Site Plan Review Authority

The Middleboro Planning Board is the authorized organization for site plan review.

117 ugh

Compliance with Laws, Ordinances and Regulations

Construction and operation of large-scale solar photovoltaic installations shall be consistent with applicable local, state and federal requirements, including applicable safety, construction, electrical and communications requirements. Buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the state building code.

Required Review and Permitting

An applicant for installation of a large-scale ground-mounted solar photovoltaic installation shall obtain a permit from the Building Inspector. The applicant shall obtain Planning Board Plan Approval and a building permit before beginning construction.

Special Permit

Large-scale ground-mounted solar photovoltaic installations that do not meet the requirements of this bylaw may be allowed by special permit granted by the Zoning Board of Appeals.

Interconnection Agreement

No large-scale ground mounted PV system shall be constructed until evidence has been given to the Middleborough Planning Board that the utility company (Middleboro G&E Department) that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

Fees

An application for a building permit shall be accompanied by the fee required for a building permit. For ground-mounted solar photovoltaic installations with less than 250 kW nameplate rating, the fee shall be [\$2000]. The fee for installations with a nameplate rating of 250 kW or above, the fee shall be \$10 per kW of nameplate rating. Other fees that may be required by permitting parties, shall be administered according to the regulations of the applicable commission. (For example, the Conservation Commission may require a NPDES permit for storm water control.)

EPA (Federal)

Site Plan Review and Approval

Before any construction, installation or modification may begin, large-scale ground-mounted solar photovoltaic installations shall undergo site plan review by the Planning Board to ascertain Compliance with Laws, Ordinances and Regulations.

The construction and operation of large-scale ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to applicable safety, construction, electrical, and communications requirements.

May be waived by the Building Inspector under 250kW

Required Documentation

- 1) Blueprints or drawings of the solar photovoltaic installation stamped by a professional engineer licensed in Massachusetts⁽¹⁾, showing the proposed layout of the system and any potential shading from nearby structures and off-site vegetation.
- 2) Identification of the property owner, the photovoltaic system owner and the installer.

Proposed
Limit of work,
existing
tree line,
Proposed
tree line

can com
NOT
for work
in 100 ft
B.E.
200 ft
RFA

SEP is
requiring a
narrative
and
stormwater
checklist
w/ com
com
applic.

- 3) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with National Electrical Code compliant disconnects and over-current devices.
- 4) Property lines and physical features, including roads for the project site.
- 5) Documentation or cut sheets of the major system components to be used, including makes and models of the PV panels, transformer, inverter, mounting system and chemicals for cleaning and maintenance of equipment.
- 6) The plan for site maintenance, including an access route for emergency vehicles, upkeep of grounds and storm water control.
- 7) A list of any hazardous materials proposed to be located on the site, during construction or operation, in excess of household quantities, and a plan to prevent their release to the environment. This list should include the material safety data sheets (MSDS) for any listed materials.
- 8) Locations of wetlands or Priority Habitat Areas, as defined by the Natural Heritage and Endangered Species Program (NHESP) located on or adjacent to the property. A plan for compliance with the applicable regulations shall be included.

Dimensions and Density Requirements

Setbacks

Setbacks from all boundary lines in a Commercial Zone or Residential zones A, B, and R, or General use shall be a minimum of fifty feet (50').

Commercial Development or Industrial Zones require a ten foot (10') for setback of solar collection equipment providing the abutting property is also in a General, Commercial Development or Industrial Zone. Abuttals to Commercial or Residential Zone property shall be fifty feet (50').

For all installations, sound generating equipment, including inverters and transformers, shall be located to meet the requirements stated below under Safety and Environmental Standards.

Buffer Zones/ Visual Screening

If a permit is issued under this bylaw in Residential Zones A, B or R, then the perimeter of the project shall have a vegetated buffer that will screen the view of the large-scale ground-mounted solar photovoltaic installation. The buffer must be sufficiently dense to block the view of the project from any dwellings abutting the property. In the other districts where site plan approval is given, the project shall have a vegetated buffer that will screen the view of the large-scale ground-mounted solar photovoltaic installation from the boundary of any abutting residence.

Submittals for the site plan review process should include a project landscaping plan that includes visual screening and fencing appropriate to the project.

What about proposals on scenic roads?

Archaeology? + Historic sites

how much?

yes

Fencing

The perimeter of the project shall be protected with an appropriate fence of at least 6 feet with a locked gate. It is not the intent of this regulation that fencing extend to the property boundary, but only to ensure that the power generating equipment is enclosed.

→ If in WHEEP - have a smaller space under fence of at least 6" above ground.

Safety and Environmental Standards

Emergency Services

The owner of a large-scale ground-mounted solar photovoltaic installation shall provide a copy of a project summary, including final electrical schematic and site plan to the Middleboro Fire Chief. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. Means of access, such as a Knox Box shall be provided and a means of shutting down the installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. A sign at the property entrance shall provide a 24-hour contact phone number. A 30 foot wide right-of-way, either paved or graded with gravel shall be provided for access of emergency equipment.

Land Clearing, Soil Erosion and Habitat Impacts

Under Middleboro zoning districts, clearing of natural vegetation shall be limited to that necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, as approved by the Middleboro Conservation Commission, BOS as water commissioners under WFPD.

Clearing more than IAC triggers EPA-NDEP

Sound Levels

Any ground-mounted solar photovoltaic installation within the business district, in residential Zones A, B and R, or General Use shall not increase noise levels greater than 10 dB above the existing ambient levels as described in Massachusetts Department of Environmental Protection (DEP) Regulation 310 CMR 7.10.

no disturb in zone II areas
HOPE

Ground-mounted solar photovoltaic installations in Industrial Zones, sound levels at the property boundary shall be demonstrated to comply with the National Noise Control Act of 1972 and be approved by Middleboro Conservation Commission.

Lighting

we don't regulate noise
ZBA review?

Lighting of solar photovoltaic installations shall be consistent with local, state and federal laws. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

Decommissioning Requirements

Removal Requirements

Any large-scale ground-mounted solar photovoltaic installation not intended for further use as a solar generator shall be removed. The owner or operator shall physically

remove the installation no more than 150 days after the date of discontinued operations. Decommissioning shall consist of:

- 1) Physical removal of large-scale ground-mounted solar photovoltaic installations, associated structures, equipment, security barriers and transmission lines from the site.
- 2) Disposal of all solid and hazardous waste and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- 3) Stabilization or re-vegetation of the site as necessary to minimize erosion as approved by the Middleboro Conservation Commission.

Soil testing requirement? →

For areas within the commissions Jurisdiction

Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one (1) year without the written consent of the Planning Board, at which time the dismantling and removal shall be carried out at the owner's expense. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

Notes:

1. Standard plans for ground mounted solar installations with a nameplate capacity of less than 500 kW, previously stamped by a professional engineer and approved for installation in Massachusetts, may be submitted.
2. Ground-mounted solar photovoltaic installations in the Industrial Zone should comply with OSHA 1910.95 within the property at any normally occupied areas.

Additional sound requirements	No increase >10dB (5)	NCA @ boundary (6, 7)	No increase >10dB (5)	NCA @ boundary (6, 7)	No increase >10dB (5)
Notes:	(1) Engineering approval required unless Massachusetts approved standard design < 500kW.				
	(2) May be waived by the Building Inspector under 250kW				
	(3) Setbacks from any boundary must be 50' when adjacent to Residential Property				
	(4) Fencing as approved by the Environmental Commission				
	(5) See MA CMR 7.10				
	(6) US Noise Control Act of 1972				
	(7) See OSHA 1910.95 for occupied areas.				