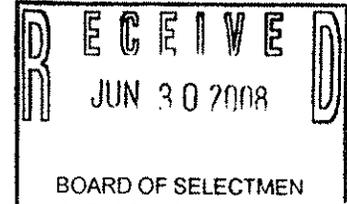


NEW BUSINESS

7-14-08



Town of Middleborough
20 Centre Street, Second Floor
Middleborough, Massachusetts 02346



Robert J. Whalen
Building Commissioner
Tel. 508-946-2426
Fax 508-946-2305

June 26, 2008

Middleborough Board of Selectmen
Middleborough Town Offices
10 Nickerson Ave
Middleborough, MA 02346

RE: Proposed Rules and Regulations for Alcoholic Beverage Sales

Honorable Board,

I have reviewed the proposed regulations for alcoholic beverage sales. Applicants who intend to sell alcoholic beverages to be consumed on the premises should be issued a copy of the Massachusetts General Laws Chapter 304 of the Acts of 2004*. This act went into effect on March 1, 2005 and includes the following.

- Requires all applicants for alcoholic beverages licenses to submit a valid certificate of inspection, as provided in the state building code, issued by a local inspector, and signed by the head of the Fire Department. The certificate of inspection shall attest to the safety of the building or structure in which the applicant intends to sell alcoholic beverages to be consumed on the premises.
- Creates criminal penalties for dangerous conditions in public assembly buildings, including blocking ingress or egress; shutting off or failing to maintain fire protection systems; storing flammables or explosives; using fireworks or pyrotechnics without a permit and exceeding occupancy limits. The first infraction will result in a fine of not more than \$5,000 and/or imprisonment of up to two and a half (2 ½) years. Subsequent infractions will result in a fine of up to \$25,000 and/or imprisonment of up to five (5) years;
- Establishes criminal penalties for individuals who violate provisions of the state building or fire codes when a violation results in significant injury or death. Violations may result in a fine of up to \$25,000 and/or imprisonment of up to five (5) years.

- Mandates sprinklers in places of assembly, such as nightclubs with an occupancy of 100 persons or more within three (3) years (by Nov. 15, 2007).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. J. Whalen". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Robert J. Whalen
Building Commissioner

* (see attached)

Chapter 304 of the Acts of 2004

AN ACT RELATIVE TO FIRE SAFETY IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 201 of chapter 6 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the words "twenty-six A 1/2", in lines 6, 50, 54, 57, 60 and 68, the following words:- and twenty-six G 1/2.

SECTION 2. Chapter 10 of the General Laws is hereby amended by adding the following section:-

Section 74. The commission shall require all applicants for alcoholic beverages licenses to submit a valid certificate of inspection, as provided in the state building code, issued by a local inspector, as defined in chapter 143, and signed by the head of the fire department, as defined in chapter 148, for the city, town or district in which the applicant intends to sell alcoholic beverages to be consumed on the premises. The certificate of inspection shall attest to the safety of the building or structure in which the applicant intends to sell alcoholic beverages to be consumed on the premises and that the building or structure meets or exceeds the requirements of the state building code.

The commission shall require that every license holder submit, annually, a valid certificate of inspection, as provided in the state building code, issued by a local inspector and signed by the head of the fire department for the city, town or district in which the premises is located and from which alcoholic beverages intended to be consumed on the premises are to be sold. The issuance of such certificate shall be a precondition for the issuance or renewal of such a license and the commission may summarily revoke any license upon notice of noncompliance or expiration of such certificate, by operation of law and without a hearing. The commission may presume that such premises conform with the inspectional safety requirements for the premises as provided for in the state building code based upon such certificate, however such presumption may be rebutted.

Failure by the inspector to issue an annual certificate of inspection, signed by the head of the fire department, may be appealed in accordance with the inspectional safety requirement procedures for appeal as provided in the state building code.

The commission may authorize the issuance of a temporary license to any applicant or license holder who has been issued a temporary certificate of inspection by a local inspector and signed by the head of the fire department, as provided in the state building code, if the applicant or license holder has complied with the terms therein and the temporary certificate of inspection has not expired. Such temporary license may be revoked by the commission, without a hearing, if the licensee has failed to comply with the terms of such temporary certificate.

Failure by the inspector to issue an annual certificate of inspection signed by the head of the fire department, may be appealed in accordance with the inspectional safety requirement procedures for appeal as provided for in the state building code.

The commission shall promulgate rules and regulations to effectuate the purposes of this section.

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth herein are hereby appropriated from the General Fund unless specifically designated otherwise herein, for the several

purposes and subject to the conditions specified herein, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2004, provided that said sums shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

EXECUTIVE OFFICE OF PUBLIC SAFETY
Fire and Building Inspector Education and Training

8000-0018

For the administration of a Fire and Building Inspector Education and Training Program to educate and certify all municipal fire and building inspectors in the commonwealth \$450,000

Firefighting Equipment Grant Program

8000-0050

For the firefighting equipment grant program for fire departments of every city, town, fire district and authority of the commonwealth to be administered by the executive office of public safety, provided that grants shall be distributed to municipalities according to a formula giving equal weight to each municipality's population; provided further that a municipality shall not receive less than \$15,000; provided further, that eligible fire safety equipment under this program shall include, but shall not be limited to, turnout gear, hand-held power lights, communication devices, telephones, personal alert safety systems, air packs, tanks, compressors, thermal imaging devices and computerized personnel accountability systems, but shall exclude firefighter apparatus and vehicles; provided further that grants awarded by said executive office to a municipality under the program shall not be utilized for the purpose of personnel costs unless such costs constitute 50 per cent or less of the total grant award; provided further that no grant shall be awarded to the department of fire services; provided further that not later than February 1, 2005, the executive office of public safety shall submit a report to the house and senate committees on ways and means and to the secretary for administration and finance detailing the amount of grants awarded to such grant recipients and descriptions of the grants and each municipality shall provide the executive office of public safety with a comprehensive list of the best-practices that have been instituted as a result of these grants..... \$10,000,000

SAFE Program

8000-0619

For the distribution of grants for city and town student awareness of fire education programs, to be known as S.A.F.E programs, which shall include information about the fire risks caused by smoking; and provided further that grants awarded by the executive office of public safety to a municipality under the program shall, when applicable, be in an amount not less than the amount of the grant or grants each such municipality received in fiscal year 2000.....\$1,078,666

SECTION 3. Subsection (d) of section 2 of chapter 62 of the General Laws is hereby amended by adding the following paragraph:-

(3)(a) For purposes of the depreciation deduction allowed under sections 62(a)(1) and 168 of the Federal Internal Revenue Code, as amended and in effect for the taxable year, a taxpayer that is required to comply with section 26G 1/2 of chapter 148 of the General Laws and that has so complied, may classify an automatic sprinkler system having a situs in the commonwealth, and used exclusively in the trade or business of such taxpayer, as 5-year property as defined under section 168(e)(3) of the Federal Internal Revenue Code. The term "automatic sprinkler system" means the system installed pursuant to the provisions of said section 26G 1/2 and in accordance with the state building code.

(b) Such depreciation deduction for the automatic sprinkler system shall be allowed only upon the condition that the net income for the taxable year and all succeeding taxable years be computed without any depreciation deduction upon the property other than the deduction allowed by this section.

SECTION 4. Chapter 63 of the General Laws is hereby amended by inserting after section 38R the following section:-

Section 38S. (a) In determining the net income subject to tax under this chapter, a domestic or foreign business corporation required to comply with section 26G 1/2 of chapter 148 and that has so complied, may, for the purposes of the depreciation deduction allowed under section 168 of the Federal Internal Revenue Code, classify an automatic sprinkler system having a situs in the commonwealth, and used exclusively in the trade or business of such corporation, as 5-year property as defined under 168(e)(3) of the Federal Internal Revenue Code. The term "automatic sprinkler system" means the system installed pursuant to section 26G 1/2 of said chapter 148 and in accordance with the state building code.

(b) Such depreciation deduction for the automatic sprinkler system shall be allowed only upon the condition that the net income for the taxable year and all succeeding taxable years be computed without any depreciation deduction upon the property other than the deduction allowed by this section.

SECTION 4A. Chapter 143 of the General Laws is hereby amended by inserting after section 97 the following section:-

Section 97A. (a) The board of building regulations and standards shall require the owner of any building or structure or portion thereof, that includes a place of business designed or used for occupancy as a nightclub, dance hall, discotheque, bar, or for similar entertainment purposes, with a capacity of 100 persons or more, and which includes 1 or more residential dwellings, to install an adequate system of automatic sprinklers throughout the building including, but not limited to, residential dwellings and in any common areas connected thereto, in accordance with the state building code. This section shall apply to the construction or substantial alteration of buildings or structures, approved by building permit on or after December 1, 2004. This paragraph shall not preclude the board of building regulations and standards from prescribing more stringent sprinkler requirements.

(b) Whoever is aggrieved by an interpretation, order, requirement, or direction of the building official under this section, or whoever is aggrieved by a failure of the building official to take action under this section, may, within 45 days after the service of notice of such interpretation, order, requirement, or direction, or after 45 days of such failure to act, appeal from such interpretation, order, requirement, direction, or failure to act to the building code appeals board as provided in section 100 of chapter 143.

SECTION 5. Chapter 148 of the General Laws is hereby amended by inserting after section 26G the following section:-

Section 26G 1/2. For the purpose of this section the term "adequate system of automatic sprinklers" shall include: (1) a working automatic sprinkler system; (2) fire alarm system control equipment which provides notice of an emergency within a place of assembly; and (3) adequate monitoring of and reporting of any activation of the automatic sprinkler system and fire alarm equipment, in accordance with the state building code in effect at the time of the installation of such system and equipment.

Every building or structure, or portions thereof, of public assembly, with a capacity of 100 persons or more, that is designed or used for occupancy as a nightclub, dance hall, discotheque, bar, or for similar entertainment purposes, including all rooms, lobbies, and other spaces connected thereto and all means of egress and entrances, including any such public assembly located within a mixed use building or structure, including a building or

structure owned or controlled by the commonwealth or a political subdivision thereof, (a) which is existing, or (b) for which an approved building permit was issued before December 1, 2004, shall be protected throughout with an adequate system of automatic sprinklers, in accordance with the state building code.

Any owner of a business designed or used for occupancy as a nightclub, dance hall, discotheque, bar or for similar entertainment purposes to which the second paragraph does not apply shall install a system of automatic sprinklers within the building or structure in accordance with the state building code if the business: (1) violates the maximum capacity for such building or structure, as established by a duly recognized inspector of buildings, building commissioner or local inspector of a city, town or district or other duly recognized local inspector or inspector, as provided in chapter 143, 2 or more times during a 12-month period; or (2) violates the maximum capacity of such building or structure by a number greater than 1/2 of such maximum capacity as established by a duly recognized inspector of buildings, building commissioner or local inspector of a city, town or district or other duly recognized local inspector or inspector, as provided in chapter 143. Any owner of a building or structure required to install automatic sprinklers as a result of a violation of this paragraph shall do so within 1 year of being cited for such violation, and shall be responsible for the full costs of installation. Notwithstanding any general or special law to the contrary, any business owner cited for violating the maximum capacity for his place of business shall be subject to a \$10,000 fine for a first or second offense. A third such offense shall result in the business owner losing his license to operate in the commonwealth, and all food, entertainment and other licenses associated with his business. This paragraph shall be enforced by a duly recognized inspector of buildings, building commissioner or local inspector of a city, town or district or other duly recognized local inspector as provided in chapter 143, or any state official with concurrent jurisdiction.

This section shall not apply to a place of assembly within a building, structure or portions thereof used principally as a house of worship, restaurant, lecture hall, auditorium, state or local government building, educational function facility, or other similar place of assembly. Temporary use of such a building or structure or portions thereof as a nightclub, dance hall, discotheque, bar or for similar entertainment purposes, may be allowed if a permit is issued for such use by the head of the fire department in consultation with the local building inspector or inspector who may set the terms and conditions to protect against fire and preserve public safety.

Whoever is aggrieved by an interpretation, order, requirement or direction of the head of the fire department under this section, or, whoever is aggrieved by a failure of the head of the fire department to take action under this section, may, within 45 days after the service of notice of such interpretation, order, requirement or direction, or, after 45 days of such failure to act, appeal from such interpretation, order, requirement, direction or failure to act to the automatic sprinkler appeals board as provided in section 201 of chapter 6.

The cost of installing an adequate system of automatic sprinklers pursuant to this section shall be borne in its entirety by the owner of the building or structure.

Except as provided in the third paragraph, the head of the fire department shall enforce this section.

SECTION 6. Said chapter 148 is hereby further amended by inserting after section 34 the following 4 sections:-

Section 34A. (a) Any owner, occupant, lessee or other person having control or supervision of any assembly use group building, as defined by the state building code, and who causes or permits a dangerous condition to exist on the premises at anytime shall be punished by a fine of not more than \$5,000 or by imprisonment in the house of correction for not more than 2 1/2 years, or both.

For the purposes of this section, "dangerous condition" shall mean:-

- (1) any blocked or impeded ingress or egress;
- (2) the failure to maintain or the shutting off of any fire protection or fire warning system required by law;
- (3) the storage of any flammable or explosive without a properly issued permit in quantities in excess of allowable limits of any permit to store;
- (4) the use of any firework or pyrotechnic device, as defined by the board of fire prevention regulations, without a properly issued permit; or
- (5) exceeding the occupancy limit established by the local building inspector pursuant to chapter 143.

Nothing in this section shall preclude the issuance of a citation for a code violation, as provided for by chapter 148A.

(b) Whoever is convicted of a second or subsequent violation of paragraph (a) shall be punished by a fine of not more than \$25,000 or by imprisonment in the state prison for not more than 5 years or in a house of correction for not more than 2 1/2 years, or both such fine and imprisonment.

Section 34B. Any person who wantonly or recklessly violates the state building code or state fire code and thereby causes serious bodily injury or death to any person shall be punished by a fine of not more than \$25,000 or by imprisonment in the state prison for not more than 5 years or in a house of correction for not more than 2 1/2 years, or both.

For purposes of this section, "serious bodily injury" shall mean bodily injury that results in a permanent disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial risk of death.

Section 34C. Whoever (1) commits a second or subsequent violation of the state building code or state fire code, including any incorporated specialized codes, or any lawful order of the marshal, the head of the fire department or a state or local building inspector or (2) continues to violate any such code or order after receipt of actual notice of such violation or order, shall be punished by a fine of not more than \$1,000 or by imprisonment for 1 year in the house of correction or by both such fine and imprisonment. Notice may be provided by in-hand service, by posting the same in a conspicuous place on the premises in violation, or by the lawful issuance of a citation pursuant to chapter 148A. This section shall not apply to such violations which are under appeal pursuant to section 100 of chapter 143, if such appeal was timely filed.

Section 34D. Notwithstanding any other general or special law to the contrary, the housing court, the district court or the superior court shall have jurisdiction and equitable powers to enforce the lawful orders of the marshal or head of the fire department pursuant to this chapter.

SECTION 7. The General Laws are hereby further amended by inserting after chapter 148 the following chapter:-

CHAPTER 148A.

Section 1. As used in this chapter the following words shall, unless the context otherwise requires, have the following meanings:-

"Code violation", a violation of the state building code, 780 CMR or the State Fire Code, 527 CMR.

"Housing court", the housing court within the county in which an alleged code violation has occurred, or, if there is no housing court in the county, the district court with jurisdiction of the location in which the alleged code

violation occurred.

"Local code enforcement officer", the head of the fire department as defined in section 1 of chapter 148, or a designee of the head of the fire department who is empowered to enforce the state fire code, or the local building inspector empowered to enforce the building code pursuant to section 3A of chapter 143.

"Municipal hearing officer", a person appointed by the appointing authority of a municipality to conduct requested hearings of code violations pursuant to this chapter.

"Scheduled assessment", the amount of the civil assessment for a particular code violation as determined jointly by the state fire marshal, commissioner of public safety, and the chief justices of the district and housing court departments, respectively. A scheduled assessment shall not exceed the maximum assessment or fine established by law for each such violation.

"State code enforcement officer", in cases involving the state fire code, the marshal as defined in section 1 of chapter 148, or in the case of state building code violations, the state building inspector empowered to enforce the building code pursuant to section 3A of chapter 143.

Section 2. (a) Notwithstanding any general or special law to the contrary, any local code enforcement officer, empowered to enforce violations of the state building code or the state fire code may, as an alternative to initiating criminal proceedings, give to the offender a written notice of a code violation. Such notice shall contain the name and address, if known, of the offender, the specific offense charged and the time and place of the violation. The notice shall be signed by the local code enforcement officer and shall be signed by the offender whenever practicable in acknowledgement that such notice has been received. The local code enforcement officer shall, if possible, deliver to the offender a copy of the notice at the time and place of the violation. If it is not possible to deliver a copy of the notice to the offender at the time and place of the violation, the copy shall be mailed or delivered by the local code enforcement officer, or by the head of his department or by any person authorized by such department head, to the offender's last known address, within 15 days after the violation or discovery thereof. Such notice as so mailed shall be deemed a sufficient notice. A certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be *prima facie* evidence thereof. The notice shall be executed in triplicate.

Whoever, upon request of any local code enforcement officer, refuses to state his name and address, or if he states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not more than \$200.

(b) The local code enforcement officer shall indicate on the notice of violation that the violation is either: (1) a written warning; or (2) a code violation. If the notice is for 1 or more code violations, the code enforcement officer shall indicate on the notice the scheduled assessment for each violation alleged. If the notice of violation is for a continuing condition, the code enforcement officer shall indicate that the condition must be corrected within 24 hours of receipt of such notice. Failure to correct the condition within 24 hours may serve as grounds for criminal prosecution pursuant to section 34C of chapter 148.

(c) If the notice is for 1 or more code violations, the alleged violator shall return the notice of violation by mail, personally or by authorized person to the municipal hearing officer and shall, within 21 days, either: (1) pay in full the scheduled assessment; or (2) request a hearing before the municipal hearing officer. Any amounts paid shall be payable to the city or town, as the case may be. If the alleged violator requests, in a timely manner, a hearing before the municipal hearing officer, the municipal hearing officer shall schedule a hearing not later than 45 days after receiving such hearing request. The municipal hearing officer shall duly notify the alleged violator of the date, time and location of the hearing. In no case shall the hearing officer, so designated, be an employee

or officer of the fire department or building department associated with the code enforcement officer who issued the notice of violation. The hearing by the municipal hearing officer shall be informal and the formal rules of evidence shall not apply.

(d) Any person aggrieved by a decision of the municipal hearing officer, after a hearing, may appeal to the housing court within the county in which the violation occurred and shall be entitled to a hearing before a clerk magistrate of the court. The appeal shall be filed by the aggrieved person within 10 days after receiving notice of the decision from the municipal hearing officer who conducted the hearing.

(e) Any person who has received a notice of violation issued in accordance with this section who, within the prescribed time, fails to pay the scheduled assessment or fails to exercise his right to request a hearing before the municipal hearing officer or who fails to appear at the time and place of the hearing, shall be deemed responsible for the code violations as stated in the notice of violation and such finding of responsibility shall be considered *prima facie* evidence of a finding of responsibility for the code violation in any civil proceeding regarding said violation and shall be admissible as evidence in a subsequent criminal proceeding. If the condition which caused the notice of violation to issue continues to exist, the finding of responsibility may also be used by the city or town as *prima facie* evidence of the existence of a code violation in any proceeding to suspend or revoke any license, permit or certificate issued by such municipality, the state fire marshal or commissioner of public safety relative to said building, structure or premises pending the correction of the condition.

Section 3. (a) Notwithstanding the provisions of any general or special law to the contrary, any state code enforcement officer empowered to enforce violations of the state building code or state fire code may, as an alternative to initiating criminal proceedings, give to the offender a written notice of a code violation. The notice shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place of the violation. The notice shall be signed by the state code enforcement officer and shall be signed by the offender whenever practicable in acknowledgement that such notice has been received. The state code enforcement officer shall, if possible, deliver to the offender a copy of the notice at the time and place of the violation. If it is not possible to deliver a copy of the notice to the offender at the time and place of the violation, the copy shall be mailed or delivered by the state code enforcement officer, or by the head of his department or by any person authorized by such department head, to the offender's last known address, within 15 days after the violation. The notice as so mailed shall be deemed sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be *prima facie* evidence thereof. The notice shall be executed in triplicate. Whoever, upon request of any state code enforcement officer, refuses to state his name and address, or if he states a false name and address, or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not more than \$200.

(b) The state code enforcement officer shall indicate on the notice of violation that the violation is either: (1) a written warning; or (2) a code violation. If the notice is for 1 or more code violations, the state code enforcement officer shall indicate on the notice the scheduled assessment for each violation alleged. If the notice of violation is for a continuing condition, the state code enforcement officer shall indicate that the condition must be corrected within 24 hours of receipt of such notice. Failure to correct the condition within 24 hours may serve as grounds for criminal prosecution pursuant to section 34C of chapter 148.

(c) If the notice is for 1 or more code violations, the alleged violator shall, within 21 days of the receipt of the notice either: (1) pay in full the scheduled assessment in accordance with the instructions on the notice of violation; or (2) request a hearing before a clerk magistrate of the housing court within the county in which the alleged violation occurred, by submitting the notice by mail, personally or by authorized person to the housing court. If the alleged violator requests a hearing before the clerk magistrate as prescribed, the clerk magistrate shall schedule a hearing not later than 45 days after receiving such hearing request. The clerk magistrate shall duly notify the alleged violator and the state code enforcement officer of the date, time and location of the hearing. The code enforcement officer who issued the notice of violation may appear personally at said hearing

or may designate another person from his department or district to prosecute the case who is also empowered to enforce such building or fire code, as the case may be. Such hearing by the clerk magistrate shall be informal and the formal rules of evidence shall not apply.

(d) Any person aggrieved by a decision of the clerk magistrate, after a hearing, may appeal to a single justice of the housing court and shall be entitled to a hearing before a single justice of the court. The aggrieved person shall file such appeal within 10 days after receiving notice of the decision from the clerk magistrate who conducted the hearing. The decision of the single justice shall be final.

(e) Any person who has received a notice of violation issued in accordance with this section who, within the prescribed time fails to pay the scheduled assessment or fails to exercise his right to request a hearing before the clerk magistrate or who fails to appear at the time and place of the hearing, shall be deemed responsible for the code violations, as stated in the notice of violation and such finding of responsibility shall be considered *prima facie* evidence of a finding of responsibility for such code violation in any civil proceeding regarding the violation and shall be admissible as evidence in a subsequent criminal proceeding. If the condition which caused the notice of violation to issue continues, the finding of responsibility, accompanied by a sworn affidavit of the issuing state code enforcement officer relating the relevant details of the violation, may be used as *prima facie* evidence in any proceeding to suspend or revoke any license, permit or certificate issued by the city, town or the commonwealth, including the state fire marshal or the commissioner of public safety relative to the building, structure or premises pending the correction of the condition.

Section 4. The state fire marshal, commissioner of public safety, the chief administrative justices of the district and housing court departments, respectively, and the president of the Massachusetts Municipal Association board of directors shall jointly prescribe standardized notice of violation forms provided for in sections 2 and 3 of this chapter which shall be uniform throughout the commonwealth. The forms, which may be modified periodically, shall clearly state the procedures, rights and obligations of alleged violators who receive such notices. The commissioner of public safety shall provide such forms to be used by local code enforcement officers to each municipality throughout the commonwealth. The charge for each such form shall be no greater than the actual cost incurred by the commissioner to produce such form.

Section 5. All fines, penalties or assessments in actions under this chapter, brought by a local code enforcement officer, shall be paid to the general fund of the city or town in which the violation occurred. Such city or town shall earmark such fines, penalties or assessments collected for enforcement, training and education of fire prevention officers, building inspectors, and the stipend for municipal hearing officers, which shall be not less than \$2,500 a year. All fines, penalties or assessments in actions brought under this chapter by a state code enforcement officers shall be paid to the commonwealth and shall be forwarded to the department of fire services as revenue to the General Fund and shall be assigned to the department's retained revenue account for the purposes of enforcement, training and education of state code enforcement officers.

SECTION 8. Notwithstanding any general or special law to the contrary, there is hereby established a special committee for the purposes of making an investigation and study of the feasibility of creating a mandatory municipal fire inspector certification program. The committee shall consist of the members of the Massachusetts Fire Training Council, established under the provisions of section 165 of chapter 6 of the General Laws, the Massachusetts Fire Service commission, established under the provision of section 165B of said chapter 6 and the state fire marshal or his designee.

SECTION 9. The secretary of public safety, or, as directed by the secretary, the head of a department, division or agency within the executive office of public safety, shall promulgate rules and regulations to effectuate the following:-

- (1) establishing a nightclub fire safety training program and training materials for employees of every building or structure, or portions thereof, of public assembly with a capacity of 100 persons or more, designed or used for occupancy as a nightclub, dance hall, discotheque, bar or for similar entertainment purposes;
- (2) establishing and promoting education relative to the proper use and storage of all forms of fire extinguishers and other similar fire suppressant apparatus for the owners, lessees or mortgagees of all buildings certified under the state building code;
- (3) establishing methods for the proper tracking and certification of pyrotechnic displays, usage of fog, hazing or other fog producing apparatus in all places of public assembly, improving luminescence of egress routes and the widening or upgrading of main exit doors in places of public assembly, establishing requirements that "balanced design" be employed in future construction of larger entertainment venues, such as theatres, convention centers and arenas and establishing standards, based on current technology and science, on the proper use of fire resistant acoustic materials in all places of public assembly.
- (4) establishing an advisory council on fire safety building materials for the purpose of incorporating comprehensive flame-retardant material standards into state building codes and to recommend to the state board of building regulations and standards flame-retardant material standards to be incorporated as emergency amendments into the state building code. Such standards may incorporate the use of fire resistant coating. For the purposes of this section, "fire resistant coating" is defined as a coating that has attained both the room corner test FM 4880 or UL1715 or NFPA 286 on plywood and ASTM E-119 on numerous substrates found in general building construction.

The secretary of public safety shall establish, in conjunction with the executive office of economic affairs, methods for owners, lessees, or mortgagees in possession of a building or structure, or portions thereof of public assembly with a capacity of 100 persons or more, designed or used for occupancy as a nightclub, dance hall, discotheque, bar or for similar entertainment purposes to install automatic sprinklers at discounted rates including, but not limited to, no-interest or low-interest loans and insurance cost containment measures.

SECTION 10. On or before June 1, 2005, the secretary of the executive office of economic affairs shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a plan to reduce for owners the costs associated with implementing section 5 including, but not limited to, programs utilized by the Title V program and low-interest loans and tax credits.

SECTION 11. Any owner of a building, structure or portions thereof subject to the provisions of the second paragraph of section 26G 1/2 of chapter 148 of the General Laws shall submit plans and specifications for the installation of an adequate system of automatic sprinklers to the head of the fire department and the local building inspector or inspector within 18 months of the effective date of this act and shall install an adequate system of automatic sprinklers within 3 years of such effective date. The head of the fire department may allow a reasonable extension of time, not to exceed 1 year, to comply with said section 5 if the owner has timely submitted the required plans and specifications, has entered into an existing contract for the installation and clearly documents or shows that he did not cause the delay of installation.

For the purpose of this section the words "adequate system of automatic sprinklers" shall include: (i) a working automatic sprinkler system; (ii) fire alarm system control equipment which provides notice of an emergency within a place of assembly; and (iii) adequate monitoring of and reporting of any activation of the automatic sprinkler system and fire alarm equipment, in accordance with the state building code in effect at the time of the installation of such system and equipment.

SECTION 12. Section 7 of this act shall take effect on March 1, 2005.

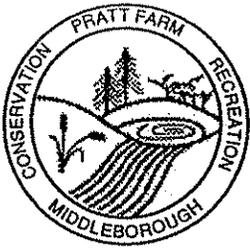
Approved August 17, 2004.

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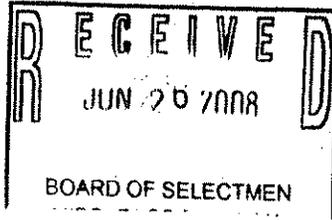
List of Laws passed in 2004 Session

General Court home page, or

Commonwealth of Massachusetts home page.



Pratt Farm Fall Festival • Middleborough, Massachusetts



JUNE 26, 2008

BOARD OF SELECTMEN
TOWN HALL
NICKERSON AVENUE
MIDDLEBOROUGH, MASS. 02346

TO OUR HONORABLE SELECTMEN

WE ARE HAVING THE PRATT FARM FESTIVAL ON SEPTEMBER 27TH FROM
9 A.M. TO 4 P.M. RAIN OR SHINE.

WE WOULD LIKE TO ASK YOU FOR YOUR PERMISSION TO USE THE TOWN
HALL PARKING LOT FOR A PICK UP STATION TO THE FESTIVAL. AS IN
THE PAST, WE HOPE TO HAVE USE OF THE GATRA BUSES, VIA THE
COUNCIL ON AGING.

THIS IS ALSO AN INVITATION FOR OUR TOWN FATHERS & MOTHERS
TO ATTEND OUR 18TH ANNUAL FALL FESTIVAL.

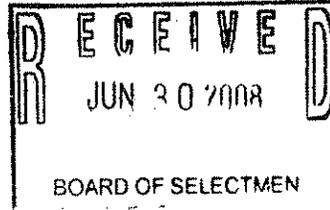
SINCERELY YOURS,,

A handwritten signature in cursive script that reads "Sarah Jigerjian".

SARAH JIGERJIAN
CO CHAIRMAN

June 27, 2008

Tom and Kathy McGuinness
14 Cooney Lane
Middleborough, MA



To Whom It May Concern:

At 11:00 on Sunday September 28, 2008, we would like to hold a 2 mile walk in our sons memory to raise money for the Progeria Research Foundation. This is a non-profit organization. Kris was a pre-school student at the Dr Lincoln D. Lynch School.

The walk would start and finish at the Middleboro Memorial Early Childhood Center. The route has sidewalks and is mainly on the side streets surrounding the school.

We will be putting up posters and advertising for the walk. We hope to have around 200 walkers.

The route will be as follows:

- Start at MMECC
- Left on Main St.
- Right on Centre St.
- Right on Forest St.
- Right on Frank St.
- Straight on Pierce St.
- Left on School St.
- Right on Barrow St.
- Finish back at the MMECC

Enclosed is a copy of our approval thru the school board.

If you need more information please call us at home 508 946 0587 or call Tom at work 781 447 9900

Thank You,

Tom and Kathy McGuinness

Tom and Kathy McGuinness

*Bob:
Chief Russell
has no concerns
or objections.*

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MIDDLEBOROUGH PUBLIC SCHOOLS

FLORA M. CLARK ADMINISTRATION BUILDING, 30 FOREST STREET
MIDDLEBOROUGH, MASSACHUSETTS 02346
Telephone 508-946-2000

Robert M. Sullivan, Ed.D.
Superintendent of Schools

Thomas Tatro
Director of Business and Finance
Theresa Craig
Coordinator of Curriculum and
Professional Development

June 26, 2008

Mr. & Mrs. McGuinness
14 Cooney Lane
Middleborough, MA 02346

Dear Mr. & Mrs. McGuinness,

The Middleborough School Committee on Thursday, June 12, 2008 voted to approve your request for a waiver for the fundraising walk for the Progeria Research Foundation at the Memorial Early Childhood Center on September 28, 2008.

If you need further assistance please don't hesitate to call Central Office at 508-946-2000, ext. 110.

Sincerely,

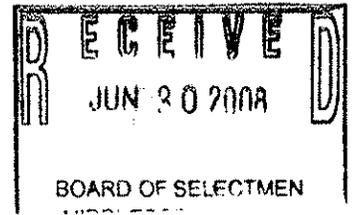
A handwritten signature in cursive script that reads "Donna MacDonald".

Donna MacDonald
Secretary to Central Office



Town of Middleborough
Massachusetts

MIDDLEBOROUGH HISTORICAL COMMISSION



June 10, 2008

Mr. Adam Bond, Chairman
Middleborough Board of Selectmen
Town Hall
Middleboro, MA 02346

Dear Mr. Bond:

At their meeting on Tuesday, May 20, 2008 the Middleborough Historical Commission discussed the status of the Freight House and voted to send a letter to the Board of Selectmen to inquire as to the status of this vacant building and request that the Building Inspector take another look at it.

The Middleborough Historical Commission would also like to tour the building and ascertain its current condition.

Please do not hesitate to contact me if you have any questions.

Sincerely yours,

Jane Lopes
Jane Lopes, Chairman

JL/kmf

CC: Mr. Stephen Lombard
Town Manager

Jacqueline Shanley

From: Brian Giovanoni [bgiovanoni@gmail.com]
Sent: Tuesday, July 01, 2008 2:23 PM
To: All Town Department Heads
Cc: Brian Giovanoni
Subject: Resort Advisory Committee Request

To: All Department Heads

From: Brian Giovanoni, Chairman
Resort Advisory Committee

Re: Resort-Casino Impact Items

Date: July 1, 2008

Good afternoon,

Only one year ago, you were asked to submit potential impacts a resort casino constructed in Middleborough could have on your department. We are asking all departments revisit their original analysis which was submitted last year to the Town Manager and Planner and let us know of any additional potential impacts you we may need to consider for your department.

Thank you for taking time to consider any additional impacts.

Please feel free to contact us, now or in the future, with any questions or concerns.

Brian Giovanoni, Chairman
bgiovanoni@gmail.com

The next scheduled meeting of the Resort Advisory Committee is July 10, 2008 at 7:30 PM at the Town Hall.