

# **NEW BUSINESS**

**03/04/19**

**A.**

**Vote to approve a Host Community Agreement and Development Agreement with Seven Point of Massachusetts for property located at 461 Wareham Street**

## RETAIL HOST COMMUNITY AGREEMENT

This Host Community Agreement (the "HCA") is entered into by and under the laws of the Town of Middleborough (the "TOWN"), a municipal corporation duly organized under the laws of the Commonwealth, acting through its Board of Selectmen (the "SELECTMEN") and Seven Point of Massachusetts, Inc. with a principal office address of 2 Seaport Lane, 11<sup>th</sup> Floor, Boston, MA ("LICENSEE").

This HCA represents the understanding between the TOWN and LICENSEE (the "PARTIES") with respect to development of a tract of land with improvements located at 461 Wareham Street, Middleborough (the "PROPERTY") for use as an adult use marijuana retailer.

### RECITALS

WHEREAS, LICENSEE and the TOWN previously entered into a Host Community Agreement for the operation of a registered marijuana dispensary ("RMD"), dated May 2, 2016 (the "2016 HCA"); and

WHEREAS, LICENSEE plans to expand the use of the Property to add a licensed adult use marijuana retailer pursuant to 935 CMR 500, *et. seq.* (the "FACILITY"); and

WHEREAS, G.L. Chapter 94G, Section 3, and the regulations issued thereunder, require that TOWN and LICENSEE execute an agreement setting forth the conditions to have the FACILITY within it that must include, but not be limited to, all stipulations of responsibilities between the host community and the marijuana establishment; and

WHEREAS, the TOWN recognizes this development and FACILITY will benefit the TOWN and its citizens through increased economic development, offering products in a safe, licensed and secure setting; additional employment opportunities for residents, and a strengthened local tax base; and

WHEREAS, the PARTIES agree and acknowledge that the TOWN has identified certain concerns with respect to the impact of the construction of the expanded and improved facilities on the PROPERTY, as well as their subsequent operation, which the Parties hereby stipulate are likely to cause the TOWN to incur particular additional expenses and impacts on the TOWN arising from the FACILITY that may include, but are not limited to additional responses to activity from the City's Police Department; added traffic control and/or parking measures and expenses and impacts on the City's roads; and expenditure of resources for additional fire protection services, inspectional and permitting services, public health services and abuse prevention efforts, as well as additional unforeseen impacts; and



WHEREAS, LICENSEE and the TOWN have a mutual interest in the long-term sustainable development of both the LICENSEE'S FACILITY and the economic growth of the TOWN; and

WHEREAS, the parties stipulate that the Community Impact Payments set forth in this Agreement address direct or secondary impacts of the LICENSEE's operations within the TOWN pursuant to applicable Massachusetts law and regulations, including but not limited to 935 CMR 500 and G.L. c.94G, § 3(d), and are reasonably related to said direct and secondary impacts.

WHEREAS, the PARTIES intend to enter this HCA as a means of memorializing their obligations with respect to mitigation of the impacts of the FACILITY, as well as their intention to collaborate to the fullest extent possible to ensure the proposed improvements and operations occur efficiently and in a manner that will benefit the TOWN:

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the PARTIES hereby agree as set forth herein.

1. The PARTIES respectively represent and warrant that:
  - a. Each is duly organized and existing and in good standing, has the full power, authority, and legal right to enter into and perform this HCA, and the execution, delivery and performance hereof and thereof (i) will not violate any judgment, order, state law, bylaw, or regulation, and (ii) do not conflict with, or constitute a default under, any agreement or instrument to which either is a party or by which either party may be bound or affected; and
  - b. This HCA has been duly authorized, executed and delivered and constitutes legal, valid and binding obligations of each party, enforceable in accordance with its terms, and there is no action, suit, or proceeding pending, or, to the knowledge of either party, threatened against or affecting wither wherein an unfavorable decision, ruling or finding would materially adversely affect the performance of any obligations hereunder, except as otherwise specifically noted in this HCA.
2. LICENSEE agrees that it is required to obtain all local permits required pursuant to Massachusetts Law and the TOWN'S Bylaws and regulations. Provided the Town acts in accordance with the procedures set forth in G.L. c.44, §53G, LICENSEE shall be required to pay the reasonable costs of the employment by TOWN boards and/or officials of outside consultants, including without limitation, engineers, architects, scientists and attorneys required to review the application for such local permits required to operate the FACILITY.

3. LICENSEE commits to the provision of educational materials related to health, safety and responsible use of the products offered at the FACILITY. These materials shall be readily available at the point of purchase.
4. LICENSEE is deeply committed to creating a non-discriminatory workplace and a welcoming work environment. LICENSEE is also deeply committed to being a Good Neighbor to the TOWN. Therefore, where allowed by Federal, State and Municipal laws and regulations, a "Local Labor Hiring Preference" shall exist for all residents of the TOWN applying for employment by LICENSEE at the FACILITY. Within the confines of the law, and all other factors being equal, LICENSEE shall reasonably seek to employ TOWN residents before considering other candidates for open positions.
5. LICENSEE has committed to a Good Neighbor Policy regarding the TOWN. As an expression of this Policy, LICENSEE shall seek reasonable ways to contribute to the growth, development, and long-term success of the TOWN.
6. If requested by the TOWN, LICENSEE shall provide to the TOWN, for review and approval, the name and relevant information, including but not limited to the information set forth in 935 CMR 500 or any successor regulation, of the person proposed to act as on-site manager of the FACILITY. The submittal shall include authorization to perform a Criminal Offender Record Information (CORI) check. The TOWN shall consider such request for approval within thirty days following submittal to determine if the person proposed is of suitable character to act as on-site manager. Such approval shall not be unreasonably denied, conditioned or delayed. In the event the TOWN does not confirm or reject the proposed on-site manager within thirty (30) days, the manager shall be deemed approved by the TOWN for purposes of this HCA. This approval process shall also apply to any change of on-site manager.
7. LICENSEE, its assignee, nominee, or successor thereof, shall remit to the TOWN the full mill rate of its assessed property value in accordance with the standard property taxation schedule of the TOWN.
8. LICENSEE shall remit to the TOWN a community impact payment in the sum of 3% of the gross sales of all adult use marijuana and marijuana-infused products from the marijuana retailer, as those terms are defined by G. L. c. 94G,. Such payments shall be delivered to the TOWN on a quarterly basis. The first such payment shall be due 20 days after the 90<sup>th</sup> day following commencement of operations, and each subsequent payment shall be due on the same day of each quarter thereafter. As used herein, Commencement of operations shall mean the date on which a certificate of occupancy is issued for the FACILITY.



9. LICENSEE shall deliver a Community Development Payment to the TOWN in the amount of \$50,000.00 per annum, which amount shall increase annually at the rate of 2 ½ percent. The first such payment shall be due on or before the first anniversary following commencement of operations, with subsequent payments due on the annual anniversaries of the first such payment.
10. The PARTIES acknowledge that the TOWN has imposed a local sales tax upon the sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the TOWN, pursuant to the provisions of G.L. c.64N. Accordingly, LICENSEE, as required by applicable law, shall remit to the Massachusetts Department of Revenue the excise tax rate determined by the Commonwealth of Massachusetts for the sale of adult-use marijuana and adult-use marijuana-infused products, currently at 3.0% of gross annual sales. Pursuant to G.L. c.64N, §3, the excise taxes received by the Department of Revenue "shall at least quarterly be distributed, credited and paid [to the Town] by the state treasurer". Nothing herein shall limit the ability of the TOWN to adjust the local sales tax in the future, should the law be amended to allow for an increase in such allowable sales tax.
11. All payments required hereunder shall remain in effect for the full duration of LICENSEE'S use of the FACILITY for the purposes stated herein. In the event such term is deemed to be contrary to law, the payments shall remain in effect for the longer of five years or the maximum period allowed by law, and this agreement together with such payments shall automatically renew for successive terms of the longer of five years or the maximum period allowed by law. Upon voluntary or involuntary permanent termination of the use, and upon delivery to the TOWN of written notice of such termination, payments or benefits shall immediately cease; provided, however, that LICENSEE shall, within seven (7) days of such notice, pay to the TOWN the payments required hereunder, prorated based upon the number of days that elapsed from the immediately prior payment date to the date of such termination of use.
12. This HCA may only be modified by the express written consent of both parties. Any and all notices, consents, demands, requests, approvals or other communications required or permitted under this HCA, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, and will be effective upon receipt for hand or said delivery and three days after mailing, to the other Party at the following addresses:

To Town:

Town Manager  
Middleborough Town Hall  
10 Nickerson Avenue  
Middleborough, MA 02346

Copy to:

Jonathan M. Silverstein  
KP Law, PC  
101 Arch Street  
12<sup>th</sup> Floor  
Boston, MA 02110

To Licensee:

Seven Point of Massachusetts, Inc.  
c/o Vicente Sederberg, LLC  
2 Seaport Lane, 11<sup>th</sup> Floor  
Boston, MA 02210

Each of the PARTIES shall have the right by notice to the other to designate additional persons to whom copies of notices must be sent, and to designate changes in address.

13. If and to the extent that either party is prevented from performing its obligations hereunder by an event of *force majeure*, such party shall be excused from performing hereunder and shall not be liable in damages or otherwise, and the parties shall instead negotiate in good faith with respect to appropriate modifications of the terms hereof. For purposes of this HCA, the term *force majeure* shall mean the supervening causes described here, each of which is beyond the reasonable control of the affected party: acts of God, fire, earthquakes, floods, explosion, actions of the elements, war, terrorism, riots, mob violence, a general shortage of labor, equipment, facilities, materials, or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, laws or orders of any governmental or military authorities, or any other cause similar to the foregoing, not within the control of such party obligated to perform such obligation.
14. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.
15. The failure of any party to strictly enforce the provisions hereof shall not be construed as a waiver of any obligation hereunder. This HCA can be modified only in a written instrument signed by the SELECTMEN and LICENSEE. This HCA shall be binding upon the PARTIES and their successors and assigns.
16. LICENSEE shall reimburse the TOWN for reasonable attorney fees incurred by the TOWN in conjunction with the FACILITY, except as a result of the willful or intentional misconduct of the TOWN, including in connection with



the negotiation of this HCA. Such reimbursement shall be made within fourteen days after written request by the TOWN.

17. The LICENSEE shall indemnify, defend, and hold the TOWN harmless from and against any and all claims, demands, liabilities, actions, causes of actions, defenses, and/or proceedings, including resultant costs and attorney's fees, except as a result of the willful or intentional misconduct of the TOWN (collectively, the "Claims"), brought against the TOWN, its agents, departments, officials, employees, and/or successors, by any third party arising from or relating to the FACILITY or the HCA. Such indemnification shall include, but shall not be limited to, all reasonable fees and reasonable costs of attorneys and consultants of the TOWN's choosing incurred in defending such claims, actions, proceedings or demands. The LICENSEE agrees, within thirty (30) days of written notice by the TOWN, to reimburse the TOWN for any and all costs and fees incurred in defending itself with respect to any such claim, action, proceeding or demand.
18. The LICENSEE agrees it will not challenge, in any jurisdiction, the enforceability of any provision included in this HCA; and to the extent the validity of this Agreement is challenged, the LICENSEE shall pay for all reasonable fees and costs incurred by the TOWN in defending such challenge. Furthermore, the LICENSEE shall pay for all reasonable fees and costs incurred by the TOWN in enforcing this HCA if the Town prevails.
19. LICENSEE acknowledges that time is of the essence with respect to performance of its obligations hereunder and that late payments shall be subject to interest at the rates prescribed by G.L. c. 59, §57. These payments or benefits shall be made payable to the TOWN at the direction of the Town Manager.
20. Should the TOWN enter into an agreement with any other adult use marijuana retailer for siting in the TOWN that requires payments to the TOWN that are proportionally lower than those provided in this HCA, Sections 8 and 9 of this HCA shall be null and void, and the parties shall negotiate in good faith to modify the terms of this HCA to reflect such lower payments.
21. If any term or condition of the Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction or regulatory authority, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced. The parties agree that should any payments or voluntary contributions detailed herein later be deemed not enforceable or not required, LICENSEE agrees to donate or gift the equivalent amount to the

TOWN on the same schedule as stated herein for the duration of the LICENSEE’s operation of the FACILITY.

- 22. The Town shall support the LICENSEE’s application as a marijuana establishment with the Cannabis Control Commission and work with the Licensee to secure a marijuana establishment license.
- 23. This HCA may be executed in counterparts.
- 24. Nothing herein shall have the effect of nullifying or superseding the 2016 HCA, which shall remain in full force and effect.

Executed under seal.  
TOWN OF MIDDLEBOROUGH:

Board of Selectmen

\_\_\_\_\_  
Leilani Dalpe, Chairman

\_\_\_\_\_  
John M. Knowlton, Vice-Chairperson

\_\_\_\_\_  
Allin Frawley, Member

\_\_\_\_\_  
Diane C. Stewart, Member

\_\_\_\_\_  
Neil Rosenthal, Member

SEVEN POINT OF MASSACHUSETTS, INC.

By: Brad A. Zerman, President  
Duly Authorized

# **NEW BUSINESS**

**03/04/19**

**B.**

**Discuss Cannabis – Limit Number of  
Related Businesses in Town**



# **NEW BUSINESS**

**03/04/19**

**C.**

**Vote/Discuss Town Counsel's Response**


**RE:A Plus Waste Matter**

A

NOTICE:

The Town of Middleborough 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, September 24, 2018 at 7:45 p.m., to determine with respect to the Board's Odor Abatement Order dated July 25, 2016 regarding a composting operation on property of A Plus Waste & Recycling Services, LLC whether there was a basis for the Order and whether odor is still an issue such that paragraphs C and D of the Order were supported when entered and/or are supported now. The property is located at 88 River Street in Middleborough, Assessors Map 002, Lot 5463. Anyone wishing to be heard on this matter should appear at the time and place designated.

3

CLERK'S NOTICE		DOCKET NUMBER  1683CV00891	Trial Court of Massachusetts The Superior Court 
CASE NAME: A Plus Waste & Recycling Services, LLC vs. Town of Middleborough Board of Selectmen on behalf of Town of Middleborough Board of Health et al			Robert S. Creedon, Jr., Clerk of Courts
TO: Daniel F Murray, Esq. Decas, Murray & Decas Post Off Box 201 Middleboro, MA 02346			COURT NAME & ADDRESS Plymouth County Superior Court - Plymouth 52 Obery Street - Suite 2041 Plymouth, MA 02360
<p>You are hereby notified that on 07/28/2018 the following entry was made on the above referenced docket:</p> <p>Endorsement on Motion for Clarification of Order (#13.0): Other action taken Allowed in Part. The Board shall, within 60 days of this Order, convene a hearing, whether a regular hearing or re-opened hearing, to determine whether there was a basis for its July 25, 2016 Order and to determine whether odor is still an issue such that paragraphs C and D were supported when entered and/or are supported now. Once it does so, the parties shall pursue the normal avenues of appeal, if any are necessary.</p> <p>Judge: Ricciuti, Hon. Michael D</p>			
DATE ISSUED  07/30/2018	ASSOCIATE JUSTICE/ ASSISTANT CLERK  Hon. Michael D Ricciuti		SESSION PHONE#

C

12) The Health Agent noticed an odor coming from the Business many times and described the odor as a "sour garbage" smell; he also noted that the odor was sometimes sustained but sometimes intermittent, depending on the day.

13) The Business took steps to prevent the odor from leaving the property, such as implementing "BioWorld Odor Neutralizer," an odor neutralizing agent, and purchasing a "Nasal Ranger Field Olfactometer."

✓ 14) Despite these steps taken by the Business, the odor remained present and continues to be present at neighboring properties.

Based on the foregoing, the Board finds that there is a nuisance odor, which is injurious to the public health, emanating from the Business.

The Board orders the following:

A) the Business shall follow the Administrative Consent Order and Notice of Noncompliance (the "ACO"), dated June 9, 2016, DEP file number ACO-SE-16-4001;

B) the Business shall follow the Composting Facility Operation Plan for Compost Materials Removal and Odor Control dated June 8, 2016, submitted by the Business to DEP and referenced in DEP's ACO;

✓ C) the Business shall remove all composting materials used in the composting operation, including but not limited to organic materials, from the Business's property by February 1, 2017, regardless of any amendments allowed by DEP to the ACO, and regardless of the status of the ACO;

✓ D) the Business shall not accept any further material used or to be used in the currently permitted composting operation on the Business's property, including but not limited to organic materials, regardless of what may be allowed or permitted by DEP, the Town of Middleborough



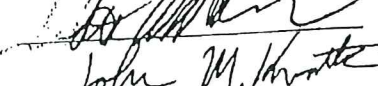


Zoning Board of Appeals, or any other federal, state, or local agencies; the prohibitions in this Paragraph "D" relate only to the current operation and do not apply to new and/or different operations which may be permitted or allowed through a new application and/or permitting process in the future through other boards or agencies;

E) the Business shall utilize the Nasal Ranger Field Olfactometer every Monday, Wednesday, and Friday between the hours of 9:00 a.m. and 10:00 a.m. at the gate of the Business, at the corners of the Business property and River Street, at the intersection of River Street and Thompson Street, as well as any other times and/or locations requested by the Health Agent, and shall keep a log of the readings of the olfactometer;

F) the Business shall file a weekly written report to the Middleborough Town Manager and the Middleborough Health Agent, to be submitted by Wednesday at 10:00 a.m. for the preceding week's activities, describing in detail the amount and location of the material removed from the property; the amount of material left on the property; the dates and times of any odor neutralizing or odor masking agents utilized; the dates, times, and findings of the olfactometer utilization; and the dates and times of any odor complaints reported.

Town of Middleborough  
Board of Selectmen, acting as  
the Board of Health,  
By:

  
  
  
John M. Hunter

A TRUE COPY ATTEST:  
Allison J. Ferreira  
TOWN CLERK

Dated: 7/25/2016

# **NEW BUSINESS**

**03/04/19**

**D.**

**Vote to declare pieces of Library  
materials and shelving as surplus for the  
Library as requested**

26 February 2019

Board of Selectmen  
Middleborough Town Hall  
10 Nickerson Avenue  
Middleborough, MA 02346

Dear Selectmen,

The Board of Library Trustees are requesting the Board of Selectmen to declare the following pieces of library materials and shelving as surplus.

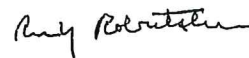
All of the materials and shelving were offered on January 7<sup>th</sup> to Town departments. No department had an interest in the materials or supplies below.

With your approval, the following materials would be surplus:

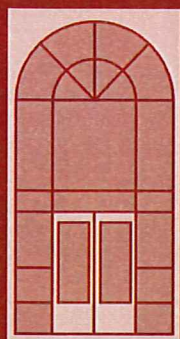
- Four (4) pieces of railing with hardware
- Two (2) stairwells (H 67" x W 29.5" x D 9")
- 155 magazine file holders
- One (1) wall-mounted phone booth
- Thirty-two (32) rectangular pieces of glass flooring (H 36"x W 25.5" x D 3/4")
- Six (6) rectangular pieces of glass flooring (H 51"x W 21.75" x D 1")
- Fourteen (14) double-sided shelving frames with base and ten (10) shelves per frame—including the wood and metal endpanels.  
(H 88" x W 29.5" x D 9")

If questions may arise, we are available to answer any questions. Thank you for your consideration.

Sincerely,

  
Randy Robertshaw  
Library Director





Middleborough  
Public  
Library

## 2019 Discards Batch #1

Randy Robertshaw, Library Director  
[rrobertshaw@sailsinc.org](mailto:rrobertshaw@sailsinc.org)





- Four (4) pieces of railing with hardware
- Two (2) stairwells





155 magazine file holders





**One (1) wall-mounted telephone booth**





- Thirty-two (32) square pieces of glass flooring
- Six (6) rectangular glass pieces of glass flooring





Two sets of double-sided, metal 88" book shelves with ends.



## **NEW BUSINESS**

**03/04/19**

**E.**

**Vote to approve the 13<sup>th</sup> Annual Patriot Half Triathlon scheduled for Saturday, June 15, 2019 at 7:30 AM with the athletes cycling on the roads of Middleborough between 8 AM and 10 AM and approve the route as indicated**



February 5, 2019

Middleborough Selectman's Office  
Middleboro Town Hall  
10 Nickerson Ave.  
Middleborough, MA 02346

To the Board of Selectmen,

I am writing to let you know that the 13<sup>th</sup> annual Patriot Half triathlon is scheduled for Saturday, June 15, 2019 and the 18<sup>th</sup> annual Cranberry Trifest Olympic distance race will be Sunday, August 25, 2019 and to request the Selectmen's approval for cyclists in these events to use selected roads in Middleborough. Both events involve athletes swimming, cycling and running, but only the bike course in these events utilize Middleborough roads.

The Patriot Half starts at 7:00am and athletes will be cycling on the roads of Middleborough between 8:00am and 12:30pm. Please refer to the attached map to see the Patriot Half bike course that shows the Middleborough roads that will be utilized. The bike course has remained the same since 2012.

Athletes in the Cranberry Trifest Olympic distance race will cycle along Middleborough roads between 8:00am and 10:00am (the race starts at 7:30am). I have attached a map of the bike course for your reference.

Maintaining the highest standards of safety for athletes, pedestrians and motorists is our highest priority. As each event draws closer I will contact the Middleborough Police to coordinate details at the appropriate road intersections along the routes. Both events will comply with all safety requirements of a USA Triathlon sanctioned event.

Please let me know if you require any additional information regarding these events. We appreciate the opportunity to utilize the roads of Middleborough and look forward to a great race day and sharing the beauty of Middleborough with our athletes.

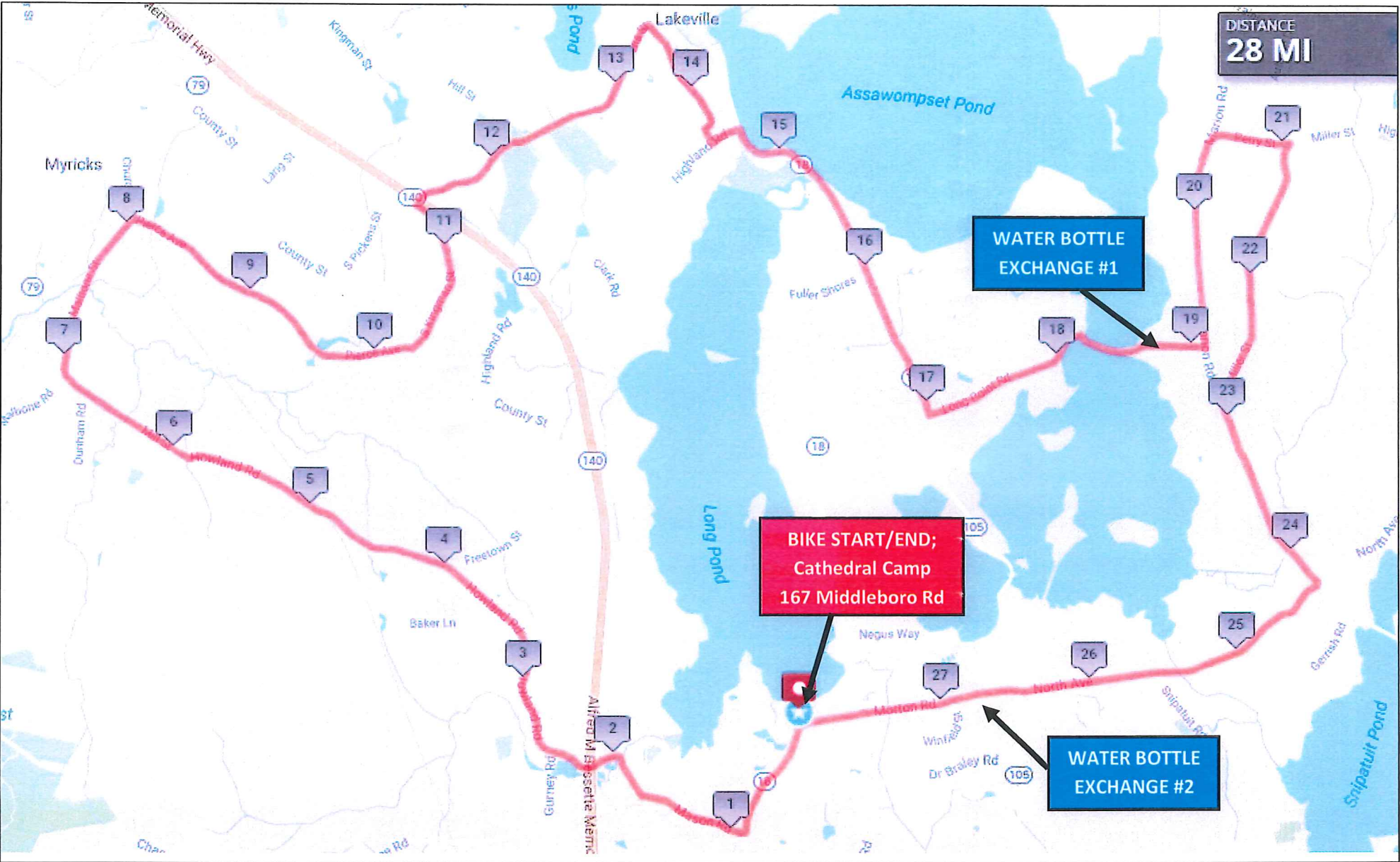
Sincerely,



Mark Walter  
USAT Certified Race Director  
Sun Multisport Events  
54 Beechnut Road  
Westwood, MA 02090

Phone: 781-414-0437

PATRIOT HALF BIKE COURSE



**PATRIOT BIKE COURSE CUE SHEET:**

<b><u>MILE</u></b>	<b><u>DIRECTION</u></b>
0.00mi	Leave Cathedral Camp towards MA-18 N/Middleboro Rd
0.08mi	Turn right at MA-18 S/Middleboro Rd
0.91mi	Turn right at Mason Rd
1.65mi	Turn right into Dunkin Donuts parking lot just before County Rd and head to Long Pond Rd
1.75mi	Turn left on Long Pond Road after passing storage facility
1.80mi	Turn right on County Road
1.96mi	Turn left at Washburn Rd
2.47mi	Washburn Rd becomes E Howland Rd; continue onto E Howland Rd
3.93mi	Stay straight on Howland past Freetown St on the right and high school on left
5.89mi	Turn right at Mill St
6.93mi	Bear right onto Malbone St
7.22mi	Head north on Malbone St toward Emerson Rd
8.07mi	Turn right at Pierce Ave
10.25mi	Stay left of island as you approach County St; cross over Country St to S Kingman St
11.37mi	Turn right to stay on S Kingman St
11.47mi	Stay right to go onto Pickens St
13.47mi	Turn right at Old Powder House Rd; A DANGEROUS TURN; SLOW DOWN COMING DOWN THE HILL ON PICKENS ST
14.32mi	Turn left at Heritage Hill Dr at end of Powderhouse Road
14.43mi	Turn left at Highland Rd
14.64mi	Turn right at MA-105 S/MA-18 S/Bedford St
16.50 mi	Stay straight to continue to follow MA-105 S/Bedford St (DO NOT GO RIGHT ON RTE 18)
17.07mi	Turn left at Long Point Rd
19.1mi	Turn left at Marion Rd
20.49mi	Bear right onto Perry St
21.04mi	Make sharp right turn onto Miller St; DANGEROUS TURN; SLOW DOWN AS YOU APPROACH THE RIGHT ON MILLER
22.88mi	Turn left onto Marion Rd
24.29mi	Turn right at North Ave
26.50mi	Continue straight on North Ave through intersection with Rte 105/Barley Hill Rd
26.90mi	North Ave becomes Morton Road
27.54mi	Continue straight to merge onto MA-18 S/Middleboro Rd
27.94mi	Turn right into Cathedral Camp



# **NEW BUSINESS**

**03/04/19**

**F.**

**Vote to approve the 18<sup>th</sup> Annual  
Cranberry TriFest Olympic distance race  
for Sunday, August 25, 2019 at 7:30 AM  
with the athletes cycling on the roads of  
Middleborough between 8 am and 10 am  
and approve the route indicated**



February 5, 2019

Middleborough Selectman's Office  
Middleboro Town Hall  
10 Nickerson Ave.  
Middleborough, MA 02346

To the Board of Selectmen,

I am writing to let you know that the 13<sup>th</sup> annual Patriot Half triathlon is scheduled for Saturday, June 15, 2019 and the 18<sup>th</sup> annual Cranberry Trifest Olympic distance race will be Sunday, August 25, 2019 and to request the Selectmen's approval for cyclists in these events to use selected roads in Middleborough. Both events involve athletes swimming, cycling and running, but only the bike course in these events utilize Middleborough roads.

The Patriot Half starts at 7:00am and athletes will be cycling on the roads of Middleborough between 8:00am and 12:30pm. Please refer to the attached map to see the Patriot Half bike course that shows the Middleborough roads that will be utilized. The bike course has remained the same since 2012.

Athletes in the Cranberry Trifest Olympic distance race will cycle along Middleborough roads between 8:00am and 10:00am (the race starts at 7:30am). I have attached a map of the bike course for your reference.

Maintaining the highest standards of safety for athletes, pedestrians and motorists is our highest priority. As each event draws closer I will contact the Middleborough Police to coordinate details at the appropriate road intersections along the routes. Both events will comply with all safety requirements of a USA Triathlon sanctioned event.

Please let me know if you require any additional information regarding these events. We appreciate the opportunity to utilize the roads of Middleborough and look forward to a great race day and sharing the beauty of Middleborough with our athletes.

Sincerely,

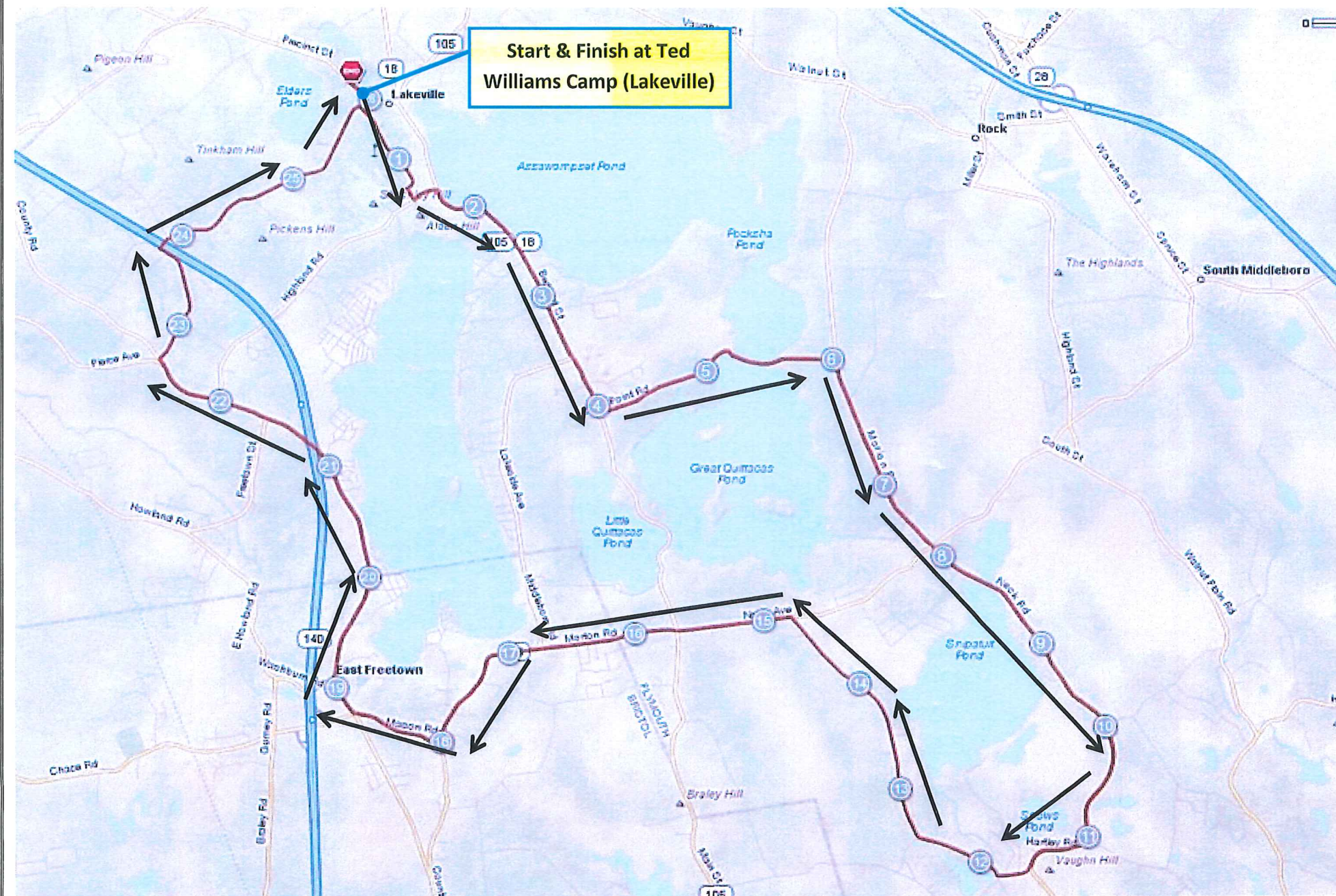


Mark Walter  
USAT Certified Race Director  
Sun Multisport Events  
54 Beechnut Road  
Westwood, MA 02090

Phone: 781-414-0437



## CRANBERRY TRIFEST OLYMPIC: Bike Course Map (26.2 miles)







## CRANBERRY TRIFEST OLYMPIC: Bike Course Cue (26.2 miles)

0.0 mi	Start
0.14 mi	Turn left at Precinct St
0.39 mi	Turn right at Pickens St
0.48 mi	Turn left at Old Powder House Rd
1.33 mi	Turn left at Heritage Hill Dr
1.44 mi	Turn left at Highland Rd
1.65 mi	Turn right at MA-105 S/MA-18 S/Bedford St
4.08 mi	Turn left at Long Point Rd
6.11 mi	Turn right at Marion Rd
7.61 mi	Continue onto Neck Rd
10.98 mi	Bear right onto Hartley Rd
11.83 mi	Turn right at Snipatuit Rd
14.75 mi	Turn left at North Ave
15.6 mi	Stay straight on North Ave
16.1 mi	North Ave becomes Morton Rd
16.7 mi	Continue onto MA-18 S/Middleboro Rd
17.94 mi	Turn right at Mason Rd
18.67 mi	Turn right into Dunkin Donuts parking lot; then turn left onto Long Pond Road then right onto County Road
22.64 mi	Turn right at S Kingman St
23.73 mi	Turn right to stay on S Kingman St
25.92 mi	Turn right at Pickens St
26.17 mi	Turn left at Precinct St
26.30 mi	Turn right into Ted Williams Camp and <b>FINISH</b>



# **NEW BUSINESS**

**03/04/19**

**G.**

**Vote to approve a Road Race on May 18,  
2019 for the YMCA and approve the  
route indicated**



February 19, 2019

Board of Selectman  
10 Nickerson Ave.  
Middleboro, MA 02346

Dear Sir or Madam:

We are requesting to run a road race on May 18<sup>th</sup>, 2019. The course for the road race will begin at Camp Yomechas and run along Rt. 28 to Rocky Gutter, Purchase St., Thomas St., Tispaquin St. and back on Rt. 28 to the camp.

I will be notifying the Middleboro Police Department and reserving a police detail for that day. If you have any questions please feel free to contact me at 508-947-1390.

Thank you,

Janna Gardner  
Health and Wellness Director



## **NEW BUSINESS**

**03/04/19**

**H.**

**Vote to approve a One Day Beer & Wine License for a Trivia Night Fundraiser in Memory of Tim Harnett to be held on March 30, 2019 from 6:30 PM to 10 PM at 53 Oak Street**

CRANBERRY CAPITAL  
OF THE WORLD



Phone: 508-946-2405  
Fax: 508-946-0058

## Town of Middleborough

Massachusetts

Board of Selectmen

### APPLICATION FOR LICENSE OR LICENSING TRANSACTION (PLEASE TYPE OR PRINT CLEARLY)

DATE 2/15/19 William Fuller  
NAME OF APPLICANT The Bartending Service of New England, LLC  
ADDRESS OF APPLICANT 13 West End Ave (490 5595)  
DAYTIME TELEPHONE 508 923 4744  
EMAIL ADDRESS Bill@TheBartendingService.com  
NAME OF BUSINESS SACKED HEART PARISH HALL  
OWNER OF PROPERTY TO BE LICENSED \_\_\_\_\_  
ADDRESS OF PROPERTY TO BE LICENSED 53 OAK ST.  
ASSESSORS MAP & LOT \_\_\_\_\_

#### TYPE OF LICENSE REQUESTED (Check One)

2 <sup>nd</sup> Hand _____	WRPD Special Permit _____
Class I Automobile Dealer License _____	Earth Removal Permit _____
Class II Automobile Dealer License _____	Liquor License ABCC Submission _____
Class III Automobile Dealer License _____	Automatic Amusement Device _____
Weekday Entertainment _____	One Day Liquor License (Check One) <u>TRIVIA Night</u>
Sunday Entertainment _____	Beer & Wine <input checked="" type="checkbox"/> All Alcohol _____ <u>FUNDRAISER in</u>

MEMORY of TIM HARNETT

If Applicable:

Anticipated Start Date for Business: MARCH 30, 2019

Days & Hours of Operation: 6:30-10:00 PM

Signature [Signature] Date 2/15/19

Please bring to the Treasurer/Collector's office @ the Town Hall Annex, 20 Center Street,  
3<sup>rd</sup> floor to obtain confirmation/signature that no outstanding taxes/municipal charges exist.

Dear Treasurer/Collector:

Please inform this department, as to whether or not the following property owner/applicant/petitioner owes the Town of Middleborough any outstanding taxes and/or municipal charges per Massachusetts General Laws, Chapter 59, Section 57.

Does Property Owner/Applicant/Petitioner owe Taxes/Municipal Charges? \_\_\_\_\_

Please return this completed Form to the Board of Selectmen's Office at 10 Nickerson Avenue  
508-946-2405



# **NEW BUSINESS**

**03/04/19**

**I.**

**Vote to approve a Notice of Betterment  
for Jeffrey L. & Nancy A. Jarrett for  
property located at 640 Wareham Street  
in the amount of \$17,500**

**District of the Land Court. The purpose of the Betterment Agreement is to authorize and enable the aforesaid property owner(s) to cause the said property to be serviced properly**



by a septic system funded by financial assistance from the Town of Middleborough in the sum of up to and not exceeding

Seventeen Thousand Five Hundred      00/100 Dollars      ( \$17,500.00 ).  
(insert amount in writing)      (insert amount in numbers)

**The aforesaid property owner(s) shall be responsible to pay the Town of Middleborough for all funds advanced to the owner(s) pursuant to the Betterment Agreement together with interest.**

**The Betterment Agreement and this Notice shall be subject to the provisions of Chapter 80 of the General Laws relative to the apportionment, division, reassessment and collection of Assessment, abatement and collections of assessments and to interest. The lien for betterment under Chapter 80, the Betterment Agreement and this Notice of Betterment Agreement shall take effect by operation of law on the day immediately following the due date of such assessment or apportioned part of such assessment.**

**This Notice of Betterment Agreement shall be a betterment under Chapter 80.**

\_\_\_\_\_  
Leilani Dalpe, Chairman

\_\_\_\_\_  
John M. Knowlton, Vice Chairman

\_\_\_\_\_  
Allin Frawley

\_\_\_\_\_  
Diane C. Stewart

\_\_\_\_\_  
Neil Rosenthal

Board of Selectmen  
Town of Middleborough

Commonwealth of Massachusetts  
County of Plymouth

On This \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ before me the  
undersigned Notary Public, personally appeared \_\_\_\_\_, proved  
to me through satisfactory evidence of identification which was \_\_\_\_\_  
to be the person whose name is signed on the preceding or attached document, and  
acknowledged to me that he/she signed it voluntarily for its stated purpose(s).

\_\_\_\_\_  
Signature of Notary  
Colleen M. Lieb

(Seal)  
My commission expires:



# **NEW BUSINESS**

**03/04/19**

**J.**

**Vote to authorize the Chairman to sign  
the Letter of Intent for Oliver Mill Park,  
Middleborough Preservation Restriction**

DATE

Paul A. Holtz  
Co-Director/Historical Architect  
Massachusetts Historical Commission  
220 Morrissey Boulevard  
Boston, MA 02135-3314

**Re: Letter of Intent for Oliver Mill Park, Middleborough, Preservation Restriction**

Dear Mr. Holtz:

As required by the Massachusetts Preservation Project Fund (MPPF) grant application to the Massachusetts Historical Commission, I submit this letter of intent on behalf of the Town of Middleborough. This letter confirms that the Board of Selectmen intend to execute and record a Preservation Restriction, if selected for a MPPF grant award. A copy of the most current Assessor's map and plot plan was submitted with the MPPF grant application.

It is the Board's understanding that the Restriction does not have to be executed until the project is underway, but that the ability of the applicant to comply with this requirement must be established before any grant allocations can be made.

A certified copy of the Town Meeting vote per **Article XX on April 23, 2019** authorizing the Board of Selectmen to execute a Preservation Restriction for the subject property will be provided no later than the May 13<sup>th</sup> deadline.

Please contact Town Manager, Robert Nunes, at 508-947-2320 with any further question or requests for additional information.

Sincerely,

Leilani Dalpe  
Chairman  
Middleborough Board of Selectmen



## **NEW BUSINESS**

**03/04/19**

**K.**

**Vote to appoint to the Council on Aging Board the following Candidates, Wally A. Glendye, Jr., CrisAnn Tortora and Mark Leach for three years terms to expire on June 30, 2020**

**From:** Andrea Priest <[aprst@middleborough.com](mailto:aprst@middleborough.com)>

**Date:** February 15, 2019 at 12:13:38 PM EST

**To:** Colleen Lieb <[clieb@middleborough.com](mailto:clieb@middleborough.com)>

**Subject:** RE: BOS

The COA Board voted unanimously to recommend for COA board appointment. Should I go or write a letter?

Walter A. Glendye Jr.  
CrisAnn Tortora  
Mark Leach



**Walter A. Glendye Jr.**

---

**Personal Career Goals**

I strive to take part in organizations for further involvement in my community. I have a quality of being charismatic and would like the opportunity for further personal growth by giving back to others.

**Work Experience**

**State Street Corporation, N. Quincy, MA                      Sept.1985-June 2006**  
**Information Technology Office & Network Design Engineer**

**Schooling Experience**

- Diagnose and resolve network problems as required using GTF, Netview, Exigence, and SOLVE/Net Master
- Direct, implement, maintain, and monitor telecommunication systems as well as configuring and backing up all vital information for State Street
- Troubleshooting of the Backbone Network and all Cisco router connections
- Assembling all devices attached to the State Street network and ensuring the proper operating level requested by the user
- Knowledge of cross wiring to HUBs and LANs, along with identification and coordination of office relocations

**Volunteer Experience**

- **Leukemia Society    June 1996**
  - Raised \$4,942.20 for the Leukemia Society by taking pledges and running in the Mayor's Midnight Marathon in Anchorage, Alaska
- **St. Vincent DePaul Food Pantry                      August 2013-2014**
  - Annually setup, walkthrough, and cleanup of Food Pantry 5k
  - Routinely stocking supplies for visitors
  - Donating clothing to those who are unable to afford such items
- **Middleborough Friends**
  - Preparation, setup, and serving of food at numerous events as well as weekly pancake breakfasts

- Decorating and setting up the Town Hall Ballroom for events such, such as the Harvest Moon Masquerade Ball and Halloween Ball
- Popcorn sales at the 50<sup>th</sup> Annual Christmas Parade
- **Middleborough Elks Lodge #1274** **June 2008-Present**
  - Member of the Board of Trustees
  - Creating and editing the monthly Bulletin/Newsletter
  - Participating in monthly Veteran's Lunch's
  - Hosting events for Elk's Rider's Runs
  - Calling slips at Friday Night Suppers
  - Charitable donations, such as meals, to families in need
  - Picking up and delivering goods for Meat Raffles
  - Prep, Setup, Cooking and Cleanup at multiple tailgate BBQ events
  - Installing electrical connections for access to new televisions
  - Creating flyers as needed for upcoming events
- **Middleborough Historical Association** **July 2017-February 2018**
  - Member of the Board of Directors/Secretary
  - Pre-staging the Herring Run Festival
  - Setting up for numerous events, such as the New Year's Party, Spring Cleanup, Garden Party, and Ice Cream Socials
- **Middleborough Historical Commission**
  - Board of Directors
  - Taking part in a site surveys, such as for the Oliver Estate and Nemasket Hill Cemetery
  - Dedication ceremony of Park Bench for Frederick Forest
- **Middleborough VFW Post 2188** **August 2016-April 2018**
  - Taking part in numerous VFW Family Days
  - Setting up, cooking, and cleaning at numerous food service events for veterans
  - Setting up and cleaning up for Christmas Parties
  - Sending care packages to soldiers in Afghanistan
- **Meals on Wheels Deliveries from November 2012-November 2016**
- **Participated in setup and registration of Jim Braga Golf Tournament**
- **Painting of soccer field lines for Middleboro Youth Soccer from 2002-2010**
- **Setup and time runners at the Coleen Twigg Run/Walk Scholarship Fund**
- **Board member for the Middleborough Tourism Committee**
- **Counting herring for the Middleboro/Lakeville Herring Fisheries Commission**

**Mark S. Leach**

**Summary of  
Qualifications:**

An experienced Accounting/Bookkeeping Professional with primary responsibilities in Management, General Ledger, Budgeting and Forecasting, Retail, Payroll and Accounts Payable, Credit and Collections, QuickBooks, and Banking and Cash Management.

**Experience:**

<b>Mar 2016-Present</b>	<b>Plimoth Plantation</b> Bank Reconciliation Specialist	Plymouth, MA
<b>Sept 2015-Jan 2016</b>	<b>Royal Contract Lighting Inc.</b> Staff Accountant <ul style="list-style-type: none"><li>• Prepare Pro-Forma Invoices</li><li>• Work with Project Managers on Final Invoicing</li><li>• Cash receipts</li><li>• Bank reconciliations</li></ul>	Taunton, MA
<b>Oct 2013-June 2015</b>	<b>Tibbetts Lumber Co.</b> Staff Accountant <ul style="list-style-type: none"><li>• Daily CRJ reconciliations for Cayman Island retail store.</li><li>• Bank reconciliations for CI\$ and US\$ accounts</li><li>• Balance sheet account reconciliations</li><li>• Fixed Assets</li><li>• Assist with CRJ reconciliations for 5 Florida stores</li><li>• Assist in preparation of monthly journal entries</li><li>• Assist in processing and payment of company purchase cards and gas cards</li></ul>	St. Petersburg, FL
<b>Jan 2002-Aug 2013</b>	<b>Now Voyager Bookstore</b> Owner and Manager of a retail establishment. <ul style="list-style-type: none"><li>• Inventory management</li><li>• Advertising and promotion</li><li>• Customer Service</li><li>• Accounts Payable and Accounts Receivable</li><li>• Manager of 5 part time staff</li><li>• Vendor relations</li><li>• Set up a point of sale inventory system</li><li>• Voted “Best Bookstore” on Outer Cape 4 years in a row by the readers of Cape Cod Life Magazine.</li></ul>	Provincetown, MA



Aug 1984-Oct 2001      **The Globe Newspaper Company**      Boston, MA

**Asst. Controller** – Community Newsdealers, Inc.  
The subsidiary of The Boston Globe responsible for home delivery of The Boston Globe as well as other newspapers and products.

- Managed a staff of 23 employees in the Accounting, Billing, Collections and Payroll departments.
- Prepared annual budget in excess of \$100 million in revenue and \$50 million in expenses, comprised of 36 field locations and 12 home office cost centers.
- Project Manager for the implementation and conversion from an archaic accounting system to the PeopleSoft Financials application. Named SME (subject matter expert) for longevity of project, training over 120 employees.
- Performed monthly variance analysis and budget reforecast.
- Managed and assisted with month-end closing operations.
- Oversaw weekly billing and accounts receivable reconciliation.

**Disbursements Manager** – The Boston Globe

- Managed and helped administer wage and benefit changes for 13 union contracts. This also included RIF, Quid Pro Quo and Welfare Payments.
- Managed the Payroll and Accounts Payable functions for The Boston Globe Newspaper.
- Received the 1995 Boston Globe Distinguished Achievement Award.
- Managed the year-end reconciliation process leading up to the printing and distribution of W-2's and 1099's.

**Senior Staff Accountant** – Affiliated Publications, Inc.  
Parent company of Globe Newspaper Company until sale to New York Times Company.

- Completed month end close process and account reconciliation.
- Performed transaction audits in Purchasing, Payroll, Billing and Accounts Payable.
- Performed Budget Coordinator function for non-Globe subsidiaries.

**Education/**  
**Training/Skills:**

- Northeastern Univ., Boston, MA., B.S.B.A. Finance/Accounting, Honors-1989-University College
- PeopleSoft Financials, Microsoft Office, Cyborg, QuickBooks Pro,
- Town of Provincetown-Served on Finance Committee from 2005-2007
- Edgeway HOA Board of Directors-Treasurer
- Middleboro COA-Meals on Wheels and Accounting Auditing



January 3, 2019

To whom it may concern

My name is CrisAnn Tortora and I moved to Middleboro 17 years ago. When my children were young, I felt being involved in the community was important. I've been involved in PTA and sports throughout the years. I would like to continue being involved but in a different way. I would love an opportunity to be involved with the COA and am asking to be appointed to the Middleborough Council on Aging Board of Directors.

I look forward to volunteering again in the community.

Sincerely

CrisAnn Tortora

# **NEW BUSINESS**

**03/04/19**

**L.**

**Vote to submit to the Planning Board the  
Amendment to the Middleborough  
Zoning Bylaws for Review**





***Town of Middleborough***  
*Massachusetts*

PLANNING BOARD

Telephone (508) 946-2425  
Fax (508) 946-1991

ANNUAL TOWN MEETING – APRIL 22, 2019  
NON-FINANCIAL WARRANT ARTICLE

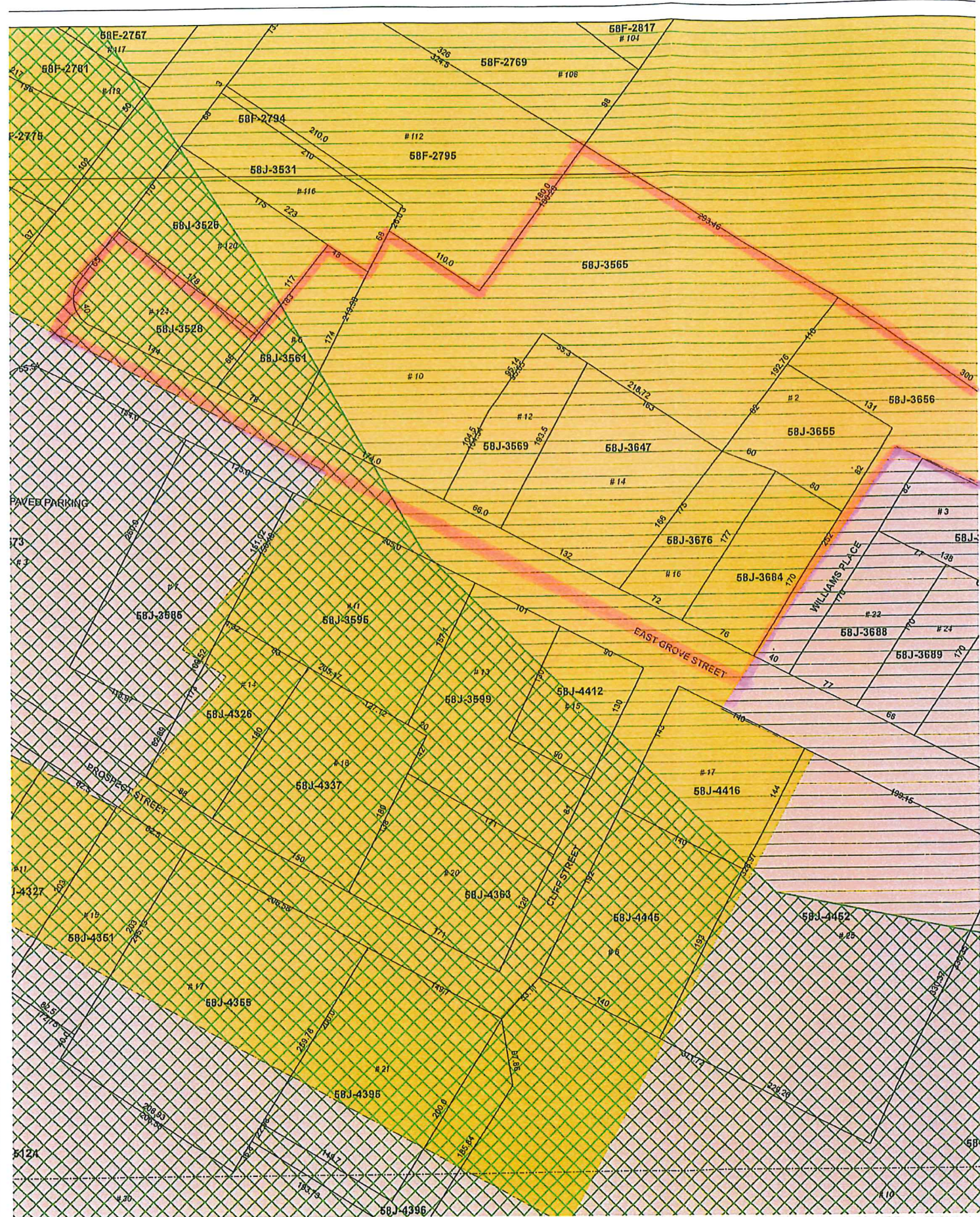
**ARTICLE : AMENDMENT TO MIDDLEBOROUGH ZONING BYLAWS –**  
**ZONING MAP**  
**SUBMITTED BY: PLANNING BOARD**

To see if the Town will vote to amend the Town of Middleborough's Zoning Map by amending the zoning designation the following parcels to General Use (GU) from its current zoning of Residential B (RB): Map 58J – Lots 3528, 3561, 3565, 3569, 3647, 3655, 3656, 3676 and 3684, in their entirety.

**Comment:** To amend Middleborough's Zoning Map to reflect those lots referenced above with frontage on East Grove Street extending east from Route 105 to Williams Place to be designated as General Use in order to conform to the surrounding area's zoning designation.

**DRAFT – 2/19/2019**







# **NEW BUSINESS**

**03/04/19**

**M.**

**Discuss Earth Removal Bylaw**



**Chapter 133**  
**EARTH REMOVAL**

- § 133-1. Definitions.

§ 133-2. Scope.

§ 133-3. Permit required; hearing; limitations on activity.

§ 133-4. Exemptions.
- § 133-5. Term of permit; filing; certificate of completion.

§ 133-6. Enforcement; violations and penalties.

§ 133-7. Compliance with Zoning Bylaw.

§ 133-8. Severability.

[HISTORY: Adopted by the Town Meeting of the Town of Middleborough 10-2-2017 STM by Art. 30, AG 1-18-2018, eff. 2-15-2018. Amendments noted where applicable.]

GENERAL REFERENCES

Excavations — See Ch. 138.

Farming — See Ch. 144.

Streets and sidewalks — See Ch. 239.

Zoning — See Ch. 275.

**§ 133-1. Definitions.**

As used in this bylaw, the following terms shall have the meanings indicated:

BOARD — The Board of Selectmen of the Town of Middleborough.

EARTH — All forms of soil, including, but not limited to, loam, sand, gravel, clay, peat, hardpan or rock.

LOT — A single parcel of land lying in a single body and separated from contiguous land by property lines, street lines, or Town lines.

OWNER — The owner of the land from which earth is sought to be removed.

PROPERTY LINE — A line separating land in one ownership from land in a different ownership, or from other land in the same ownership. A municipal boundary shall be a property line.

REMOVAL — Stripping, excavating or blasting earth from one lot and carrying it away from said lot.

**§ 133-2. Scope.**

This bylaw shall apply to all earth removal activities in the Town of Middleborough, except as otherwise limited herein.

**§ 133-3. Permit required; hearing; limitations on activity.**

- A. No earth shall be removed from any lot in the Town of Middleborough unless a permit shall have first been obtained by the owner from the Board pursuant to this bylaw, except as otherwise provided herein. All permits granted by the Board shall be subject to conditions which will guarantee, to the satisfaction of the Board, proper and reasonable surface drainage during and after operations and reasonable reuse of available topsoil. The Board shall adopt regulations including, but not limited to, exhibits, fees and bond requirements. The Board may impose permit conditions or restrictions on any permit in the best interest of the Town. The conditions or restrictions related to a permit, including the expiration date, shall be clearly set forth on the permit.
- B. No such permit shall be issued until an application therefor has been filed with the Board and the Board has held a public hearing on the application. Notice of the filing of an application and the date and time of the public hearing thereon shall be advertised, at the expense of the applicant, in a newspaper in general circulation in the Town, at least seven days before such hearing, and by written notice to the Planning Board, the Conservation Commission, and the abutters. Following the hearing, the Board may grant, grant in part, or deny the application.
- C. After an earth removal permit application has been submitted, no tree removal, utility installation, ditching, grading or construction of roads, no grading of land, no excavation except for purposes of soil testing, no dredging or filling, and no construction of buildings or structures shall be initiated on any part of that area in which the proposed earth removal will take place until the application has been received and approved and an order of conditions has been issued as provided for by this bylaw, and all activity, as described above, shall continue to be prohibited throughout the duration of the earth removal permit except for what is permitted and referenced on the approved plan. This subsection shall not apply to land in active agricultural use, including normal maintenance of cranberry bogs.

**§ 133-4. Exemptions.**

The following are exempted from the provisions of this bylaw:

- A. Any earth removal operations involving 25 cubic yards or less per lot per year.
- B. Any earth removal operations involving 800 cubic yards or less per acre on lots of four acres or less occurring in conjunction with work subject to a valid building permit.
- C. Any earth removal operations in compliance with the requirements of a subdivision plan approved by the Town's Planning Board.

**§ 133-5. Term of permit; filing; certificate of completion.**

- A. A permit may be issued for a period of up to three years. At the Board's discretion, a permit may be extended for up to one year beyond the initial permit period. If an earth removal project is not completed following the initial period plus any extension period, the applicant must reapply to the Board for a new permit to complete the project. The

applicant must meet all bylaw and regulation requirements in effect at the time of reapplication for a new permit. Current valid permits which are in effect prior to August 1, 1992, may continue in operation for up to three years from the adoption of this bylaw, subject to all conditions and restrictions of the permit and Article 7 of the May 28, 1970, Town Meeting bylaw requirements without applying for annual renewal. Such existing earth removal projects shall be subject to the provisions of this bylaw after three years from the adoption of this bylaw.

- B. A copy of the earth removal order of conditions must be filed with the Registry of Deeds, at the applicant's expense, as a notice to all that the conditions restrict work on the lot under the permit.
- C. A certificate of completion must be issued by the Board of Selectmen at the completion of the project attesting that the project was completed in accordance with the approved plans. Issuance of the certificate of completion operates to terminate the permit. The certificate of completion must also be filed with the Registry of Deeds at the applicant's expense.

**§ 133-6. Enforcement; violations and penalties.**

- A. The Board of Selectmen shall be responsible for the administration and enforcement of this bylaw. A violation of a condition or restriction of the permit shall be a violation of the bylaw. The Town Manager shall be the agent of the Board for enforcement purposes and may issue a written cease-and-desist order requiring the immediate cessation of all work on the permitted property if the Town Manager believes a violation of any condition or restriction of the permit has occurred. In the absence of the Town Manager, the Board of Selectmen may designate another agent. The written order shall specify the alleged violation. A copy of the order will be given to the Board members as soon as possible after it is issued.
- B. The Board of Selectmen shall, within three weeks of the issuance of the cease-and-desist order, hold a public hearing to review the facts and to determine whether a violation has occurred. If a violation is found, the Board, in its discretion, may revoke, revise or modify the conditions or restrictions of the permit.
- C. The penalty for violation of this bylaw shall be a fine of up to \$50 for the first offense, \$100 for the second offense and \$200 for each offense after the second offense. Each day of operation in violation of the bylaw shall be treated as a separate offense.

**§ 133-7. Compliance with Zoning Bylaw.**

An earth removal permit issued under this bylaw shall not authorize a use which is not permitted under applicable provisions of the Town of Middleborough Zoning Bylaw.<sup>1</sup> No earth removal permit shall authorize screening or other processing of earth materials in a Residential Zone. This shall not be construed to prohibit screening of earth on a lot which is

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1. Editor's Note: See Ch. 275, Zoning.



the subject of an earth removal permit, in a Residential Zone, for use on the same lot to provide gravel for roadways, loam for final grading and/or sand for bogs.

**§ 133-8. Severability.**

The provisions of this bylaw are severable; and if any provision or application of such provisions to any person or circumstances is held invalid or unconstitutional, this shall not affect the remaining provisions.

**TOWN OF MIDDLEBOROUGH  
EARTH REMOVAL PERMIT  
APPLICATION PACKAGE**

**\* \* \* \***

**BOARD OF SELECTMEN**

**\* \* \* \***

**EFFECTIVE MAY 1, 2003**

Revised February 2, 2009

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### Existing Process

- General
- Earth Removal Bylaw and Amendment
- Rules and Regulations
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- Conservation Commission
- Farm Plan
- Town Taxes and Municipal Financial Obligations

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- General
- Checklist
- Project Plan

### Appendix

- A. Project Plan
- B. Plan Check List
- C. Earth Removal By Law
- D. Inspection Checklist
- E. Typical Order of Conditions
- F. Application Form



## **EXISTING PROCESS**

### **General**

Proponents of earth removal permits are required to submit an application form through the Board of Selectmen's office that outlines the applicant's: name, address, Owner of property; location of property by referencing the Assessor's map and page number; number of acres of the property; and number of cubic yards of material to be removed.

The reasons for the permit request are to be outlined, along with proposed traffic route. Conservation Commission Order of Conditions are mentioned, along with identification of the engineer whom prepares the plan; the expected date of project start and completion and if this is a new application or renewal.

The earth removal application also requires listing of the abutter's property's name, address and assessor's map and page number. Included in Appendix A is a paper providing suggestions on how to be effective in dealing with Town Boards for your use.

### **Earth Removal Bylaw and Amendment**

The Town's Earth Removal Bylaw (ERB) outlines definitions and the scope of the permitting process. The bylaw is provided in Appendix B. In order for a permit to be issued by the Board of Selectmen (BOS), an application must be filed and a public hearing conducted. Based on information provided, the Board of Selectmen may grant or deny an application. The ERB was passed by Special Town Meeting in May, 1970 and amended in 1992. The ERB amendment states that no 'other' work can be performed at the site, once the Earth Removal Permit Application has been submitted to the Board of Selectmen.

Exemptions are provided from the ERB based on the volume to be removed, or when a subdivision plan is reviewed and approved by the Town's Planning Board.

There is no time frame provided for when an ERB permit must be issued by the Board of Selectmen in regards to the process of application, final approval or denial.

### **Rules and Regulations**

Rules, regulations and forms utilized by the Board of Selectmen or their Agent are provided in Appendix D that outlines site inspection review requirements and quarterly fees.

### **Permitting Process**

The present permitting process takes into account various reviews and approvals that have been added by the BOS over the years. A review by the Conservation Commission for site conditions that could impact water resource areas is required.

### **Conservation Commission**

The Conservation Commission is required by statutory law to review any proposed work within one hundred feet (100 feet) of any water resource area. The Town's Conservation Commission's agent should be contacted and appropriate documentation provided. An ERB permit will not be issued unless the required permit application is submitted and approved.

### **Farm Plan**

A farm plan outlines the property agricultural needs and can be prepared professionally by a private, local, state or federal entities. It is recommended that the applicant contact the Cape Cod Cranberry Growers Association for guidance on preparing a farm plan for submittal with the Middleborough Earth Removal request or upon completion of the permitting and earth removal process to be submitted with the Certificate of Completion or to be made part of the applicant's final package.

### **Town Taxes and Municipal Financial Obligations**

The Town, through the Board of Selectmen and Town Tax Collector request an update of tax debt, by a proponent, with the application process. Information regarding the status of any existing property tax or other legal obligations to the Town monies that may be owed on the property is required to be submitted.

## APPLICATION PROCESS

### General

The process for submittal of an application for an ERB permit is as follows:

1. Applicant receives an application package from the BOS and is advised that the complete process, if it includes Conservation Commission hearings, may take up to eight (8) weeks.  
  
The application package is available through email, by the BOS's Secretary. Please contact the BOS office for email address.
2. Applicant is advised to prepare a civil engineering plan that meets with the ERB permitting and project plan requirements to the Conservation Commission, along with Notice of Intent or other required forms.  
  
Conservation Commission hearings require notification of abutters.  
  
ConCom may require at least twenty one (21) days from receipt of a notice to schedule a hearing (recheck this out with Rosemary). And fourteen (14) days after the hearing the Order of Conditions may be issued.
3. If there are not any Conservation Commission requirements, proceed to No. 5.
4. Upon completion of required Conservation Commission public hearings and issuance of any Order of Conditions or finding - proceed to No. 5
5. Submit six (6) completed or revised plans, Project Plan and Order of Conditions to the Board of Selectmen's office and request a public hearing, along with a check for three hundred dollars (\$ 300.00), made out to the Board of Selectmen – Town of Middleborough.
6. Abutters are required to be notified by registered mail by the proponent.
7. The Board of Selectmen will submit a form for sign off and review by the Town Tax Collector/Treasurer for a check on whether property taxes, water, sewer or other financial obligations are current.  
  
The BOS will review the application for completeness and advise that a public hearing can be advertised. The applicant is responsible for costs associated with advertisements.
8. A public hearing will be scheduled conducted by the Board of Selectmen at a regularly or specially scheduled meeting.
9. The Board of Selectmen will complete the public hearing and provide an Order of Conditions, if acted upon favorably no later than three (3) weeks after hearing.



### **Checklist**

The town's representative will conduct quarterly inspections of the project and utilizes a checklist. This project checklist is included in the Appendix of this Application Package.

### **Project Plan**

As part of the Application Package submittal, a project plan is required. The town's representative will review this proposed project schedule and work outline for compliance. The applicant can review with the town's representative and adjust if necessary - as site conditions warrant - with the expressed approval of the town's representative. Approval of any change to the project plan will be noted on the quarterly checklist.

# **APPENDIX A**

## **PROJECT PLAN**

## APPENDIX A

### PROJECT PLAN

The purpose of the project plan is to provide a written description of the property, Past activities, state permit requirements and how the project will move through construction. The project proponent is encouraged to 'paint a picture' of how the project will proceed over the requested permit time period. The following items must be included in the project plan.

1. Purpose of project
2. Description of site and prior work
3. Reasons for earth removal permit
4. Describe past earth removal activities and compliance issues that may have occurred.
5. How project will be constructed with phases and time lines provided
6. Time duration requested for permit
7. **Describe:**
  - a. The phases, associated time lines and anticipated (**volumes, yardage and daily truckloads**) to be removed each year.
  - b. Describe the buffer zones that are to be maintained from the site excavation or pond limits to the property lines, keeping in mind that a treed buffer zone is desired by the Board of 100 feet from individual property lines, and 200 feet from town roadways.
  - c. Any specific site conditions that require special attention.
  - d. Proposed dewatering system for the area should include the abutters who have overburden wells in the area (2000 feet in circumference).

Note that there may be a requirement of determining hydrological affects if abutters complain of insufficient waters in their wells.
  - e. If ponds -reservoirs - tailwater recovery systems are to be constructed, please utilize the Soil Conservation Service - Pond Specifications for Excavated Ponds, contained in the Appendix as guidelines.
  - f. Estimated volume of material to be excavated and removed from site.
  - g. Estimated volume and site location of materials to be kept on site
  - h. Maximum sloping
  - i. Show volume of pond required for bog size.



- j. Criteria for excavation of ponds and water storage areas
- k. Dust Control measures
- l. Erosion Control measures
- m. Final topsoil and plantings
- n. Is there proposed rock crushing?
- o. Is there proposed screening equipment?
- p. Is there additional equipment requested for the site?

**8. Record Plans**

Once the project is completed or permit times have been exhausted, the approved applicant is required to submit Completed record plans to receive the Town's Certificate of Completion and release any bond that has been secured for the project.

**APPENDIX B**  
**PLAN CHECK LIST**

## APPENDIX B

### PLAN CHECKLIST

PLEASE COMPLETE CHECKLISTS FOR PLANS AND PROJECT PLAN AND INITIAL:

<b>PLANS</b>	<b>Check</b>	<b>Initials</b>
<b>A. Cover page that shows:</b>		
1. Name of project:	_____	_____
2. General directional and town locus:	_____	_____
3. Water Resource Protection District limits	_____	_____
4. Engineering Firm Name and address	_____	_____
5. Flood Map limits (if applicable)	_____	_____
6. Zoning District limits	_____	_____
<b>B. Civil Drawing Sheet 1 - that show at a minimum:</b>		
1. Existing streets	_____	_____
2. Property lines and names of adjacent properties/abutters	_____	_____
3. Existing tree lines	_____	_____
4. Existing and proposed topographical contours (5' foot minimum)	_____	_____
5. Town roadways	_____	_____
6. Proposed treed buffer zones between edges of excavation and abutters	_____	_____
7. Proposed buffer zones between property excavation and town street(s)	_____	_____
8. Distances of proposed reservoir or excavations from property lines of abutters.	_____	_____
9. Location and type of proposed excavation and work	_____	_____
10. Locations of stockpiling of materials	_____	_____
11. Proposed reservoir volume, slopes and bottom elevations	_____	_____
12. Site of proposed dewatering pond, discharge and overflow structure	_____	_____
13. Any proposed buildings, structures or utilities	_____	_____
14. Roadway systems and gates, and proposed paving areas	_____	_____
15. Proposed areas of agricultural uses	_____	_____
16. Indications of phased operations	_____	_____
17. Areas to be seeded	_____	_____
18. Existing and proposed slopes with limits of final grading	_____	_____
19. Locations of ditches	_____	_____
20. Wetlands and water resource areas	_____	_____
21. Elevations of water (high, low) as applicable	_____	_____
22. Drainage patterns with directional arrows showing flow	_____	_____
23. Fencing	_____	_____
24. Professional Engineers Civil stamp	_____	_____



25. Date of preparation  
Other information as appropriate to good engineering design

C. Civil Drawing Sheet Number 2 (as applicable)

1. Pond specifications with erosion controls
2. Erosion controls
3. Side Flow Profile

## **APPENDIX C**

### **EARTH REMOVAL BYLAW (S)**

## **EARTH REMOVAL BY-LAW**

ARTICLE 4: Voted by a majority vote to amend the Town's earth removal by-law adopted under Article 7 of the 1970 Special Town Meeting of May 28<sup>th</sup>, by deleting it in its entirety and substituting therefore the following:

### **TOWN OF MIDDLEBOROUGH EARTH REMOVAL BY-LAW**

#### **Section 1: DEFINITIONS**

- A. The term "earth" shall mean all forms of soil, including, but limited to, loam, sand, gravel, clay, peat, hardpan or rock.
- B. The term "removal" shall mean stripping, excavating or blasting earth from one lot and carrying it away from said lot.
- C. The term "lot" shall mean a single parcel of land lying in a single body and separated from contiguous land by property liens, street lines, or Town lines.
- D. The term "property line" shall mean a line separating land in one ownership from land in a different ownership, or from other land in the same ownership. A municipal boundary shall be a property line.
- E. The term "owner" shall mean the owner of the land from which earth is sought to be removed.
- F. The term "Board" shall mean the Board of Selectmen of the Town of Middleborough.

#### **Section 2: SCOPE**

This By-law shall apply to all earth removal activities in the Town of Middleborough, except as otherwise limited herein.

#### **Section 3: PERMITS REQUIRED**

No earth shall be removed from any lot in the Town of Middleborough unless a permit shall have first been obtained by the owner from the Board pursuant to this By-law, except as otherwise provided herein. All permits granted by the Board shall be subject to conditions which will guarantee, to the satisfaction of the Board, proper and reasonable surface drainage during and after operations and reasonable re-use of available topsoil. The Board shall adopt regulations including, but limited to, exhibits, fees and bond requirements. The Board may impose permit conditions or restrictions on any permit in the best interest of the Town. The conditions or restrictions related to a permit, including the expiration date, shall be clearly set forth on the permit. No such permit shall be issued until an application therefore has been filed with the Board and the Board has held a public hearing on the application. Notice of the filing of an application and the date and time of the public hearing thereon shall be advertised, at the expense of the applicant, in a newspaper in general circulation in the Town, seven days at least before such hearing and by written notice to the Planning Board, the Conservation Commission and the abutters. Following the hearing, the Board may grant, grant in part, or deny the application.



#### Section 4: EXEMPTIONS

The following are exempted from the provisions of this By-law:

- a.) Any earth removal operations involving 25 cubic yards or less per lot per year.
- b.) Any earth removal operations involving 800 cubic yards or less per acre on lots of 4 acres or less occurring in conjunction with work subject to a valid Building Permit.
- c.) Any earth removal operations in compliance with the requirements of a subdivision plan approved by the Town's Planning Board.

#### Section 5: LENGTH OF PERMIT

A permit may be issued for a period of up to three (3) years. At the Board's discretion a permit may be extended for up to one (1) year beyond the initial permit period. If an Earth Removal project is not completed following the initial period plus any extension period, the applicant must reapply to the Board for a new permit to complete the project. The applicant must meet all By-law and regulation requirements in effect at the time of reapplication for a new permit. Current valid permits which are in effect prior to August 1, 1992, may continue in operation for up to three (3) years from the adoption of this By-law subject to all conditions and restriction of the permit and Article 7 of the May 28, 1970 Town Meeting By-law requirements without applying for annual renewal. Such existing earth removal project shall be subject to the provisions of this By-law after three years from the adoption of this By-law.

A copy of the earth Removal Order of Conditions must be filed with the Registry of Deeds, at the applicants expense, as a notice to all that the conditions restrict work on the lot under the Permit.

A Certificate of Completion must be issued by the Board of Selectmen at the completion of the project attesting that the project was completed in accordance with the approved plans. Issuance of the Certificate of Completion operates to terminate the permit. The Certificate of Completion must also be filed with the Registry of Deeds at the applicants expense.

#### Section 6: ENFORCEMENT

The Board of Selectmen shall be responsible for the administration and enforcement of this By-law. A violation of a condition or restriction of the permit shall be a violation of the By-law. The Town Manager shall be the Agent of the Board for enforcement purposes and may issue a written cease and desist order requiring the immediate cessation of all work on the permitted property if the Town Manager believes a violation of any condition or restriction of the permit has occurred. In the absence of the Town Manager the Board of Selectmen may designate another Agent. The Written order shall specify the alleged violation. A copy of the order will be given to the Board members as soon as possible after it is issued. The Board of Selectmen shall, within three (3) weeks of the issuance of the cease and desist order, hold a public hearing to review the facts and to determine whether a violation has occurred. If a violation is found, the Board, in its discretion, may revoke, revise or modify the conditions or restriction of the permit. The penalty for violation of this By-law shall be a fine of up to \$50 for the first offense, \$100 for the second offense and \$200 for each offense after the second offense. Each day of operation in violation of the By-law shall be treated as a separate offense.

#### Section 7: GENERAL PROVISIONS

An earth removal permit issued under this By-law shall not authorize a use which is not permitted under applicable provisions of the Town of Middleborough Zone By-law. No earth removal permit shall authorize screening or other processing of earth materials in a Residential Zone. This shall not be construed to prohibit screening of earth on a lot which is the subject of an earth removal permit, in a Residential Zone, for use on the same lot to provide gravel for roadways, loam for final grading and/or sand for bogs.

#### Section 8: SEVERABILITY CLAUSE

The provisions of this By-law are severable; and if any provision or application of such provision to any person or circumstances is held invalid or unconstitutional, this shall not affect the remaining provisions.

**Article 4 of 11/9/92 Special Town Meeting**

**Approved by Attorney General on 2/18/93**

ARTICLE 25: To see if the Town will vote to amend Section 3. Of its Earth Removal By-law, by adding the following paragraph:

After an Earth Removal Permit Application has been submitted, no tree removal, utility installation, ditching, grading or construction of roads, no grading of land, no excavation except for purposes of soil testing, no dredging or filling, and no construction of buildings or structures shall be initiated on any part of that area in which the proposed earth removal will take place until the application has been received and approved and an Order of Conditions issued as provided for by this By-law, and that all activity, as described above, shall continue to be prohibited throughout the duration of the Earth Removal Permit except for what is permitted and referenced on the approved plan. This paragraph shall not apply to land in active agricultural use including normal maintenance of cranberry bogs.

**Adopted at Fall 1996 STM**



## EARTH REMOVAL RULES & REGULATIONS

### Initial Review:

An Initial Review to conform compliance with permit conditions and restrictions must be performed by the Board's Agent before the commencement of any earth removal activities. The fee for this review is due and payable at the time the permit holder notifies the Board's Agent that all requirements of the permit which must be done prior to the commencement of work have been accomplished, and the permit holder is ready for the agent to perform the Initial Review.

### Quarterly Review:

Quarterly Reviews must be performed by the Board's Agent following commencement of earth removal work. These reviews will include a field review and plan review to determine on-going compliance with the permit. The fee for each such review is due and payable to the Town three months after the commencement of earth removal on the lot and every three months thereafter for the duration of the permitted project.

### Required Reviews and Fees:

The fee for each review (both Initial and Quarterly) is based on the size of the earth removal project as follows:

<u>SIZE OF PROJECT</u>	<u># OF HOURS</u>	<u>HOURLY RATE</u>	<u>FEE</u>
Up to 250,000 c.yds.	10	\$40	\$ 400
250,000-500,000 c.yds.	15	\$40	\$ 600
500,000-750,000 c.yds.	20	\$40	\$ 800
Over 750,000 c.yds.	40	\$40	\$1600

### Permit Duration and Commencement of Removal:

The Board of Selectmen may issue a permit for up to three years duration. If the earth removal work and site restoration is not completed within the initial permit period, the Selectmen may vote to extend the permit for one additional year, not to exceed a total of four years. If the Permit expires, either because the three year period ends without completion of the project and the Selectmen do not extend the permit, or, in the event of a one-year extension, the full four year period ends without completion of the project, the Permit Holder/Applicant just reapply to the Board, in the same manner as an Initial Application for a permit to complete the project. A public hearing will be held on the application, and notices to abutters will be required. The applicant must meet all By-law and regulation requirements in effect at the time of reapplication for a new permit.

If the permit period expires and work is not completed and the Permit Holder/Applicant does not reapply or is denied a permit on reapplication, the Board may elect to call any performance bond and use the proceeds to restore the area to a safe conditions, replace topsoil and seed the area.

Following the Initial Review by the Board's Agent, the Agent will file a written report with the Board of Selectmen. If the Agent reports that all permit conditions and restrictions which must be performed prior to commencement of removal have been



accomplished, the Board's Agent will notify the Board of the authorized date of Initial Removal. Said date will become the date of the commencement of earth removal for purposes of determining the duration of the Permit.

If actual earth removal does not commence within six months of the signing of the Earth Removal Order of Conditions by the Selectmen, the date of commencement of earth removal for purposes of determining the duration of the permit will revert to the date of the signing of the Earth Removal Order of Conditions.

#### COMPLAINT REVIEW FORM

##### Standard Conditions:

##### Special Conditions:

##### Maintenance of:

- Buffers
- Signs
- Fences
- Slopes
- Dust Control
- Erosion Control

##### Complaints, if any, including date:

- Corrective action, if any, on complaints

##### Phone Contact to Abutters:

##### Construction in Compliance with Plan:

## **APPENDIX D**

### **INSPECTION CHECKLIST**

**EARTH REMOVAL PERMIT**  
**INSPECTION CHECKLIST**

PROJECT NAME:

PROJECT #:  
EXP. DATE:

PAYMENT RECEIVED:  
YES\_\_\_\_\_ NO\_\_\_\_\_  
CHECK #\_\_\_\_\_

LOCATION:

(CIRCLE YES OR NO)

1. Knowledge of Town Hall observed Holidays: **Yes** **No**    Comments:\_\_\_\_\_
2. Topsoil stockpile:                      **Yes** **No**                      Comments:\_\_\_\_\_
3. Bond or surety in place:              **Yes** **No**                      Comments:\_\_\_\_\_
4. Standard highway signs in place:    **Yes** **No**                      Comments:\_\_\_\_\_
5. No refining or screening:              **Yes** **No**                      Comments:\_\_\_\_\_
6. Provisions for dust control adequate: **Yes** **No**                      Comments:\_\_\_\_\_
7. Depth and slope compliance:        **Yes** **No**                      Comments:\_\_\_\_\_
8. Drainage compliance:                  **Yes** **No**                      Comments:\_\_\_\_\_
9. Warning signs along property line meet requirements:  
   **Yes** **No**                      Comments:\_\_\_\_\_
10. Special conditions (Specified Below): **Yes** **No**                      Comments:\_\_\_\_\_
- (ex: berm, 5 acre maximum, tree cutting, buffer, truck signs or assigned route, etc.)

General comments and observations:\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Inspector's Signature



**APPENDIX E**  
**TYPICAL ORDER OF CONDITIONS**

## APPENDIX E

### TYPICAL ORDER OF CONDITIONS

#### Board of Selectmen Conditions

1. Construction of the \_\_\_\_\_ shall be as outlined in the Project Plan required under **Section C - Permit Conditions** of this permit, and approved by the Town's Agent.
2. Existing tree lines, natural land topography and vegetative buffer zones shall be maintained, a minimum of one hundred feet (100 ft.) from all property lines. In the absence of treelines on the property(ies), then the natural vegetated buffer shall be maintained for the same distances and trees planted.
3. A dewatering system, if required will be outlined in the Project Plan. Monitoring wells may be required to determine groundwater levels that could impact adjacent residential overburden and bedrock wells. Note condition 31, under **Section C - Permit Conditions**.  
  
If neighboring overburden wells are determined to be potentially affected by the dewatering operation, work will cease, monitoring wells shall be installed, and an evaluation made from a qualified hydrologist on the dewatering operation, prior to commencement of work. The Town's Agent shall determine if work shall continue, after consultation with the Board of Selectmen.
4. The applicant has prepared OR WILL PREPARE a Farm Plan that meets standards set forth from the United States government's - Natural Resource Conservation District (NCRS) and the Massachusetts Department of Food and Agriculture.
5. Blasting on site is discouraged. Special permission shall be provided by the Board of Selectmen, prior to permitting application to the town Fire Department.

#### General Conditions

1. The Permittee shall submit to the Board of Selectmen's Agent and the Conservation Commission Agent a written **Project Plan** that will outline the planned activities and goals for each quarter of the Phase 1 construction work for each year of the permit. A Construction Sequence plan has been submitted for review by the Board of Selectmen's Agent for review and concurrence. The following sections are applicable under this permit:

- a. General Conditions
- b. Standard Conditions and Site Requirements
- c. Special Conditions
- d. Inspection Fees and Bonding

a,     **General Conditions**

1. All Phase 1 work consisting of regrading shall be completed and any required plantings shall be 'growing' prior to any application for a future earth removal permit. No cutting, clearing or grubbing of areas not included under this phase of the work shall be done for any future work.

If any aforesaid described work is done in unpermitted areas, prior to submittal of an earth removal permit then future earth removal requests may be forfeited. The Town of Middleborough's Earth Removal Bylaw, as amended should be reviewed by the project proponent.

2.This permit is valid for **three (3) years** OR for a lesser time approved by the Board of Selectmen at the time of application and hearing - and may be renewed for up to one (1) year thereafter at the discretion of the Board of Selectmen.

3. Hours of operation are limited from 7:30 A.M. to 4:30 P.M. Operation is allowed Monday through Friday. Motors of earth removal equipment, including trucks hauling material to and from the site, are not to be started or run until before 7:30 A.M and after 4:30 pm.

4. No operation is allowed on Saturday, Sunday or Town Hall observed     holidays, which are as follows:

- |                        |                  |
|------------------------|------------------|
| New Year's Day         | Labor Day        |
| Martin Luther King Day | Columbus Day     |
| Presidents Day         | Veteran's Day    |
| Patriots Day           | Thanksgiving Day |
| Memorial Day           | Christmas Day    |
| Independence Day       |                  |

5. All excavated areas not part of the bogs will be topsoiled and planted per the specification on the plan or at the direction of the Board of Selectmen or through their Agent. All top and subsoil shall be stripped from the operation area and stockpiled for use in restoring the area after the removal operation has ceased. minimum of four inches of topsoil must be put back in place.

6. The permit holder is not permitted to spot excavate to remove better material here and there on the site.

7. Excessive erosion is to be controlled as determined by the Board of     Selectmen's Agent or the Town's Conservation Commission's Agent.

8. No refining or screening of material is allowed on the permitted property except the screening of sand and loam to be used for on-site cranberry bogs, gravel for on-site roadways and loam for final on-site grading and seeding.

Any utilized screening plant shall be no larger than 150 to 200 yards per hour.



The permit holder shall provide a written description, time frame and proposed volume of material to be screened for approval by the Town's Agent.

9. The permit holder is allowed use of an onsite screening facility for processing and sorting out of materials for removal from the site.

**b. Standard Conditions and Site Requirements**

1. Standard highway signs warning of heavy trucks entering the street shall be erected as directed by the Board of Selectmen or their Agent and be in place prior to commencement of removal operations.

2. The Board of Selectmen, Conservation Commission, Town Manager or their Agents shall be free to inspect the premises at any time during normal working hours with or without prior notice to the permit holder.

3. The permit holder shall adhere to all State laws pertaining to covering loads and weight loads.

4. Any spillage on public ways or private property shall be cleaned up immediately by the permit holder or its agent.

5. The Board of Selectmen may, following a public hearing, revoke the permit, modify or revise the conditions of the permit and/or impose a fine if they find that the permittee, or any agent of the permittee violates any condition of this permit.

6. The Town Manager is authorized to act as the Board of Selectmen's Agent in the administration and enforcement of this permit.

7. All loaded vehicles must be covered to prevent dust and contents from spilling or blowing from the property.

8. The haul road and loading area must be watered regularly to keep dust from blowing from the property. Gravel may be required to be added to the haul road by the Board of Selectmen's Agent to assist in dust control.

9. This permit is not transferable, except by vote of the Board of Selectmen. Notice of a pending sale or transfer must be provided to the board. The Board of Selectmen may, in its discretion, hold a public hearing to consider the transfer of this permit to the prospective buyer of the property.

10. During operations, where the excavation working face will have a depth of more than 15 feet with a slope in excess of 1:1, a fence at least three (3) feet high shall be erected to limit access to that excavation.

11. No area shall be excavated so as to cause accumulation of freestanding water, except in conjunction with a storage pond for cranberry bogs as shown on the record plans. Permanent drainage shall be provided as needed in accordance with good conservation practices. Drainage shall not lead directly into or from streams or ponds, except as shown in the plans.

12. No excavation shall be closer than 200 feet to an existing public way unless specifically permitted by the Board of Selectmen at a publicly scheduled hearing. Natural vegetation shall be left and maintained on the undisturbed land for screening and noise reduction purposes.

13. Bog pumps will be powered electrically, or in the alternative, mufflers will be installed on pumps to reduce noise.

14. Gates will be installed on the haul road to prevent unauthorized access to the property.

15. Two by Three foot signs will be erected every 500' along the property line. The signs will display the permit number, the name and phone number of the permit holder's agent and the name and phone number of the Board of Selectmen's Agent, together with the words "NO TRESPASSING-EARTH REMOVAL IN PROGRESS".

16. All trucks hauling from the site must display a sign on the rear of the truck in an area that will be unobstructed and clearly in view displaying the words "TOWN OF MIDDLEBOROUGH PERMIT # 03 - \_\_\_\_".

17. A copy of this Earth Removal Order of Conditions shall be filed with the Registry of Deeds by the Permit holder as a notice to all that these conditions restrict work on the lot under the permit.

18. A Certificate of Compliance will be issued by the Board of Selectmen when the project is completed. The Certificate of Compliance will operate to release the lot from the conditions of the permit and terminate the permit. The Certificate of Compliance must also be filed with the Registry of Deeds by the permit holder.

19. Monitoring well(s) for water levels, if required, are to be measured every seven (7) days, and the results kept in a daily log.

20. The Plan shall be modified to include the general location (no survey required) of the monitoring well.

21. No standing trees are to be cut, trimmed or removed from the site, except for those areas shown on the approved plan. Violation shall result in a fine being imposed, in accordance with Earth Removal Bylaw §6, and/or revocation of the Permit.

If any tree needs to be trimmed, cut or removed, prior approval shall be provided by the Board of Selectmen's Agent.



22. No rock crushing is authorized. Any proposed rock crushing may be authorized by the Board of Selectmen following a public hearing on a request for an Earth Removal Permit modification.

23. Excessive noise levels, as determined by the Board of Selectmen's Agent, shall result in onsite equipment modification within one (1) week of notification.

24. De-watering operation plans shall be provided in the Project Plan. De-watering may be limited during the Summer months. Siltation barriers will be provided as required by the Board of Selectmen's Agent.

c. **Special Conditions**

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

d. **Inspection Fees and Bonding**

**Inspection Fees**

1. An initial review to confirm compliance with permit conditions and restrictions must be performed by the Board of Selectmen's Agent before the commencement of any earth removal activities.

The fee for this review is \$ 600.00, due and payable at the time the permit holder notifies the Board of Selectmen's Agent that all requirements of the permit which must be done prior to commencement of work have been accomplished, and the permit holder is ready for the Agent to perform the initial review.

2. Quarterly reviews must be performed by the Board of Selectmen's Agent every three months following commencement of earth removal work. These reviews will include a field review and plan review to determine on-going compliance with the permit.

a. The fee for each such review is \$ 600.00, due and payable to the Town three months after the commencement of earth removal on the lot and every three months thereafter for the duration of the permitted project.



b. This report, along with **the Project Plan** will be made available to the public at the Town Manager's Office, upon request.

c. The Board's Agent will include with the quarterly review a written assessment and update of actual activities and goals that were provided under **the Project Plan**.

d. The Boards' Agent will determine **if the Project Plan** is meeting the proposed activities and goals. If **the Project Plan** activities and goals are not met for three (3) consecutive quarters, the project permit shall be suspended and a hearing with the Board of Selectmen shall be held to determine if the permit shall be reissued.

#### **Bond Requirements**

1. A bond, or acceptable alternative surety, in the amount of **\$50,000.00** will be required to indemnify the Town for damage to private or Town property and for use by the Town for site closure in the event of abandonment of the project.

**APPENDIX F**  
**APPLICATION FORM**

## APPLICATION FORM

The project proponent must submit the following information as part of the package for the Board of Selectmen. Incomplete packages will not be accepted by the Board's administrative staff.

It is suggested that the application package be completed by a registered civil engineer.

1. Set of Plans with completed checklist
2. Application Information and Project Plan .
3. Additional submittals as identified in the application information .
4. Conservation Commission Order of Conditions
5. **Application Fee of three hundred dollars (\$ 300.00)**



**TOWN OF MIDDLEBOROUGH**  
**EARTH REMOVAL APPLICATION**  
**and renewal form**

**1. General Information**

Name of Applicant: \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

Town or City: \_\_\_\_\_

Owner of Property: \_\_\_\_\_

Location of Property: \_\_\_\_\_ Street

Assessor's Parcel and Map Numbers    Map \_\_\_\_\_ Parcel \_\_\_\_\_

Map \_\_\_\_\_ Parcel \_\_\_\_\_

Map \_\_\_\_\_ Parcel \_\_\_\_\_

**2. Permit Status**

New Application or Renewal: \_\_\_\_\_

Request for an Extension of Time for existing permit. \_\_\_\_\_

Existing Permit Number: \_\_\_\_\_

Parcel(s) Acreage: \_\_\_\_\_

Estimated Number of Cubic Yards to be Removed: \_\_\_\_\_

Requested Time Frame of Permit \_\_\_\_\_

Brief Project Description and Reasons for Request:

\_\_\_\_\_

\_\_\_\_\_

**3. Project Plan**

Has a Project Plan being submitted with this Application?

**An Application for an Earth Removal Permit will not be accepted by the Board of Selectmen for a public hearing, unless submitted with this application.**

**4. Planning Information**

a. **Proposed Traffic Route** from site to unloading of materials.

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b. Has a plan and Notice of Applicability (NOA) or Intent (NOI) been submitted to the Town of Middleborough's Conservation Commission? \_\_\_\_\_

c. Has Order of Conditions by Conservation Commission been issued: If so what is project number and date of conditions : \_\_\_\_\_

d. Provide a copy of the Order of Conditions so they may be attached to the permit.

e. Is there a Department of Environmental Protection – Water Management Act Registration or Permit for this property? \_\_\_\_\_

Permit No. \_\_\_\_\_ Registration No. \_\_\_\_\_

f. Has a Farm Plan been completed? \_\_\_\_\_ Please provide a copy.

g. Expected Date of Project Completion: \_\_\_\_\_

**5. Engineering General Information**

**Engineering Firm Name:** \_\_\_\_\_

Engineer's Contact/Name : \_\_\_\_\_

Street: \_\_\_\_\_

Town/City \_\_\_\_\_

Phone Number: \_\_\_\_\_

**7. Financial Obligations**

Do you owe any property taxes, water, sewer or any other financial obligation to the Town of Middleborough that is not current?

\_\_\_\_\_yes      \_\_\_\_\_no

**8. Authorization of Applicant**

a. Have you authorized the engineer to speak on your behalf regarding project questions that may come up prior to the public hearing?

\_\_\_\_\_ yes      \_\_\_\_\_ no

b. I have reviewed this Application Package and attached information and deem it to be correct.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Printed Name of Applicant

Date \_\_\_\_\_

Phone Number: \_\_\_\_\_



# **NEW BUSINESS**

**03/04/19**

**N.**

**Discussion on procedure of Preliminary  
“Site Plan Review”**