



Annual Town Meeting Warrant

Middleborough, Massachusetts

To Joseph Perkins, Police Chief or any of the
Police Officers of the Town of Middleborough

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn all the inhabitants of said Town, qualified to vote in Town affairs, to meet in the Auditorium of the Nichols Middle School, on Monday, April 26th, 2021 at 7:15 P.M, to act on the following articles:

ARTICLE 1. To hear the report of any committee or officer of the Town, to appoint any committee, or act anything thereon.

ARTICLE 2. To see if the Town will vote to raise and appropriate a sum of money by taxation or from available funds in the treasury to defray expenses of the Town for the fiscal year beginning on July 1, 2021, relating to all or any of its officers, boards or departments and for purposes authorized by law, or act anything thereon.

ARTICLE 3. To see if the Town will vote to transfer from the income from the sales of gas and electricity a sum of \$775,000.00 to the Assessors for the purpose of fixing the tax rate for Fiscal Year 2022, or act anything thereon.

ARTICLE 4. To see if the Town will vote to set limits on the total amount that may be expended from each of the following revolving funds during Fiscal Year 2022, as follows:

	Name of Revolving Funds	Maximum Total Amount which may be Expended from Funds
1	Municipal Fire Alarm System	\$15,000.00
2	Hazardous Materials Incident Training	\$50,000.00
3	Recycling Program	\$5,000.00
4	Composting Bin Program	\$2,500.00
5	Herring Fisheries Program	\$10,000.00
6	Recreation and Sports Program	\$100,000.00
7	Zoning Map, Bylaws and Subdivision, Rules and Regulations	\$2,500.00
8	Oliver Estate Advisory Committee	\$100,000.00
9	Tourism Committee	\$100,000.00
10	Wetland Act/Bylaw	\$15,000.00

,or act anything thereon.

ARTICLE 5. To see if the Town will vote to appropriate from the PEG Access and Cable Related Fund the following sums to fund the Fiscal Year 2022 budget of the Middleborough Permanent Cable Committee, said sums to be available to be expended to operate the Middleborough PEG Access Channels/MCCAM for necessary and expedient cable-related purposes consistent with the license agreements with Comcast and Verizon.

	PERSONAL SERVICES	
511008	STIPEND	\$ 0.00
511101	REG PAY SKILLED SERVICES	\$ 56,680.00
511104	REG PAY CLERICAL PT	\$ 500.00
511115	REG PAY DEPARTMENT HEAD	\$ 88,244.00
514600	LONGEVITY	\$ 375.00
517400	HEALTH & LIFE INSURANCE	\$ 60,000.00
519501	PROFESSIONAL DEVELOPMENT	\$ 0.00
519800	SYSTEM OPERATOR STIPEND	\$ 10,000.00
	TOTAL PERSONAL SERVICES	\$ 215,799.00
	PURCHASES OF SERVICES	
524100	BLDG & GROUND MTCE	\$ 1,000.00
526900	OTHER EQUIPMENT MTCE	\$ 10,000.00
527400	BLDG LEASE	\$ 0.00
530450	CONTRACT SERVICES	\$ 20,000.00
534100	TELEPHONE/INTERNET	\$ 4,000.00
534300	POSTAGE	\$ 100.00
	TOTAL: PURCHASES OF SERVICES	\$ 35,100.00
	CONSUM SUPPLIES	
542100	OFFICE & STATIONERY	\$ 1,500.00
542102	SUPPLIES/MATERIALS	\$ 4,500.00
542400	PRINTING	\$ 100.00
571000	IN STATE TRAVEL	\$ 500.00
573100	DUES	\$ 1,000.00
573300	LICENSES	\$ 5,000.00
	TOTAL: CONSUM SUPPLIES	\$ 12,600.00
	CAPITAL OUTLAY	
582400	CAPITAL PROJECTS	\$ 0.00
585200	NEW EQUIPMENT	\$ 40,000.00
	TOTAL: CAPITAL OUTLAY	\$ 40,000.00
	TOTAL: PEG ACCESS & CABLE RELATED	\$ 303,499.00

,or act anything thereon.

ARTICLE 6. To see if the Town will vote to appropriate \$52,000.00 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, to fund the purchase of a payroll service and all related expenses, or act anything thereon

Sponsored by the Treasurer/Collector

ARTICLE 7. To see if the Town will vote to raise and appropriate and/or transfer \$31,000.00 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account for other available source, or by borrowing for repair of the Stony Brook Dam and Seawall at Pratt Farm. Expenditure of the appropriation shall be contingent on receiving notification of an award of a grant of \$93,000.00 or more for the project from the Massachusetts Executive Office of Energy and Environmental Affairs, or act anything thereon.

Sponsored by the Conservation Agent

ARTICLE 8. To see if the Town will vote to raise and appropriate and/or transfer \$47,000.00 from Water Department Retained Earnings, for groundwater exploration off Plymouth Street, town owned land, Map 019, Lot 2168, or act anything thereon.

Sponsored by the Capital Planning Committee

ARTICLE 9. To see if the Town will vote to raise and appropriate and/or transfer \$150,000.00 from Water Department Retained Earnings, for the PFAS/PFOS pilot program, or act anything thereon.

Sponsored by the Capital Planning Committee

ARTICLE 10. To see if the Town will vote to raise and appropriate and/or transfer \$55,000.00 from Water Department Retained Earnings, for an upgrade to the SCADA system at the East Gove Street Pump Station and for a leak detection water audit for the Water Department, or act anything thereon

Sponsored by the Capital Planning Committee

ARTICLE 11. To see if the Town will vote to raise and appropriate and/or transfer \$100,000.00 from Water Department Retained Earnings, to fund emergency valve installations for the Water Department, or act anything thereon.

Sponsored by the Capital Planning Committee

ARTICLE 12. To see if the Town will vote to raise and appropriate and/or transfer \$160,000.00 from Water Department Retained Earnings, to fund the purchase of a 6 wheel international dump truck for the Water Department, or act anything thereon.

Sponsored by the Capital Planning Committee

ARTICLE 13. To see if the Town will vote to raise and appropriate and/or transfer \$150,000.00 from Water Department Retained Earnings, to fund the purchase of two 2021 Chevrolet K3500, 4x4, regular cab, utility body and 8' plow package for the Water Department, or act anything thereon.

ARTICLE 14. To see if the Town will vote to appropriate or reserve from the Community Preservation Fund annual revenues in the amounts recommended by the Community Preservation Committee for committee administrative expenses, debt service, community preservation projects and other expenses in fiscal year 2022, with each item to be considered a separate appropriation:

Appropriations:

From FY 2022 estimated revenues for Committee Administrative expenses \$22,000.00

Reserves:

From FY 2022 estimated revenues for Historic Resources Reserve \$ 44,000.00

From FY 2022 estimated revenues for Community Housing Reserve \$ 44,000.00

From FY 2022 estimated revenues for Open Space Reserve \$ 44,000.00

From FY 2022 estimated revenues for Budgeted Reserve \$286,000.00

or act anything thereon.

Sponsored by the Community Preservation Committee

ARTICLE 15. To see if the Town will vote to appropriate \$50,000.00 from the Community Housing Resources Reserve of the Community Preservation Fund to fund the Middleborough Housing Authority’s Nemasket Apartments Roof Project (20 & 23 Maddigan Way) for the purpose of improving housing conditions for seven senior housing units in two buildings; said funds to be expended under the direction of the Middleborough Housing Authority, or act anything thereon.

Sponsored by the Community Preservation Committee

ARTICLE 16. To see if the Town will vote to appropriate \$42,150.00 from the Historic Resources Reserve for the purpose of Phase III Oliver House restoration interior painting project and associated expenses; said funds to be expended under the direction of the Town Manager and the Community Preservation Committee, or act anything thereon.

Sponsored by the Community Preservation Committee

ARTICLE 17. To see if the Town will vote to appropriate \$1,850.00 from the Historic Resources Reserve and \$1,150 from the Budgeted Reserve for the purpose of the Cemeteries Preservation Project; said funds to be expended under the direction of the Friends of Middleborough Cemeteries and the Community Preservation Committee, or act anything thereon.

Sponsored by the Community Preservation Committee

ARTICLE 18. To see if the Town will vote to appropriate \$50,000.00 from the Budgeted Reserve for the purpose of Nemasket Hill Cemetery Meeting House Restoration project; said funds to be expended under the direction of the Nemasket Hill Cemetery Association and the Community Preservation Committee, or act anything thereon.

Sponsored by the Community Preservation Committee

ARTICLE 19. To see if the Town will vote to appropriate \$44,000.00 from the Open Space Resources Reserve and \$136,000.00 from the Budgeted Reserve of the Community Preservation Funds for the purpose of Phase III Oliver Mill Park restoration project; including up to \$10,000.00 for environmental monitoring, said funds to be expended under the direction of the Town Manager and the Community Preservation Committee, or act anything thereon.

Sponsored by the Community Preservation Committee

ARTICLE 20. To see if the Town will vote to use some of the funds, received by the Town from Weston Forest timber sales re: the trust fund established under Clause Nineteenth C – VII of the will of Frederick S. Weston in connection with the Frederick Weston Memorial property, for the Stipend for the Weston Forest Committee secretary, to appropriate from said funds \$400.00 for such purposes, or act anything thereon.

Sponsored by the Weston Forest Committee

ARTICLE 21. To see if the Town will vote to authorize and direct the Board of Selectmen to petition the General Court for enactment of Home Rule legislation to amend the Town Charter by changing “he” or “she” to “they”, “him” or “her” to “them” and “his” or “her” to “their”, wherever he, she, him, her, his and her appear in the Town Charter, or act anything thereon.

Sponsored by the Charter Study Committee

ARTICLE 22. To see if the Town will vote to authorize and direct the Board of Selectmen to petition the General Court for enactment of Home Rule legislation to amend the Town Charter by changing:

The reference, “Municipal Light Board” to state “Municipal Light Board, currently known as Middleborough Gas and Electric” throughout the Charter

and

The word “in” to “on” in Line 3 of Part (C) of Section Seventeen. within Legal Affairs;

and

The word “expect” to “except” in Line 2 of Part (H) of Section 19 – Powers and Duties, or act anything thereon.

Sponsored by the Charter Study Committee

ARTICLE 23. To see if the Town will vote to authorize and direct the Board of Selectmen to petition the General Court for enactment of Home Rule legislation to replace the first sentence of the first paragraph of Section Three of the Town Charter with the following:

“All powers, rights, duties and liabilities conferred or imposed by law upon the Water Commissioners, Sewer Commissioners, Board of Health, Rent Board and Auditors reside with the Board of Selectmen, or act anything thereon.

Sponsored by the Charter Study Committee

ARTICLE 24. To see if the Town will vote to authorize and direct the Board of Selectmen to petition the General Court for enactment of Home Rule legislation to amend the Town Charter by replacing the third paragraph of Section Five – Finance Committee with the following:

“For the purpose of enabling the committee to perform its duties, the Town Manager, on the first Monday of February of each year, will submit to the Finance Committee an annual operating budget. The proposed budget shall include,

but not limited to, a listing of the funds requested by all boards, committees, officers, and departments of the town; shall be balanced and show both proposed expenditures and anticipated revenues.”

And further replace paragraphs F and K of Section 19 – Powers and Duties with the following”

“(F) To keep the Selectmen fully advised as to the needs of the town within the scope of his duties.”

And
“(K) To prepare and submit an annual operating budget to the Selectmen on the first Monday of February of each year. The proposed budget shall include, but not limited to a listing of the funds requested by all boards, committees, officers, and departments of the town; shall be balanced and show both proposed expenditures and anticipated revenues. The Board of Selectmen, after reviewing the proposed budget and making changes it deems appropriate, shall submit its recommended budget to the Finance Committee for review and recommendation to town meeting.”, or act anything thereon.

Sponsored by the Charter Study Committee

ARTICLE. 25. To see if the Town will vote to authorize and direct the Board of Selectmen to petition the General Court for enactment of Home Rule legislation to amend the Town Charter by amending Section 14 – Police Department as follows:

“(B) ~~Police Officers may be removed at the pleasure of the Selectmen~~ Full time police officers whose appointments are subject to M.G.L. c.31 (civil service law) may be removed in accordance with c.31, ”

And

“(D) The Chief shall have all the powers and duties required of the position pursuant to M.G.L. c.41 s.97. The other police officers shall have all of the powers and duties required of the position by law. They shall have all the powers and duties of constables except those of service and executing civil process.”, or act anything thereon.

Sponsored by the Charter Study Committee

ARTICLE 26. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation authorizing the Town Treasurer to pay from available funds to Middleborough High School students, their parents or guardians, who paid all or a portion of the cost for the 2020 Senior Trip, the amount paid and not thereafter refunded, whereas said trip was cancelled as a result of the outbreak of the novel coronavirus COVID-19; provided that the amount to be so paid shall be limited to the funds actually expended and not yet refunded from any other sources, including but not limited to travel insurance or the High School’s Student Activity Checking Account, up to \$1,030 per student, and provided further that the General Court and Board of Selectmen are hereby authorized to approve amendments which shall be within the scope of the general objectives of this petition;

And further to raise and appropriate, or transfer from available funds, and appropriate a sum of money for said purpose, provided that expenditure of such funds shall be contingent upon passage of said special legislation, or act anything thereon.

AN ACT AUTHORIZING THE TOWN OF MIDDLEBOROUGH TO REIMBURSE MIDDLEBOROUGH HIGH SCHOOL STUDENTS AND FAMILIES FOR TRAVEL EXPENSES LOST AS A RESULT OF THE NOVEL CORONAVIRUS COVID-19.

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

SECTION 1. Notwithstanding the provisions of General Laws chapter 40, section 5, or any other general or special law to the contrary, the town treasurer of the town of Middleborough may pay, from available funds, to eligible Middleborough High School students in the class of 2020, their parents or legal guardians the amounts actually paid by such students, parents or guardians for travel and related expenses incurred in relation to the 2020 Senior Trip, which was subsequently cancelled as a result of the outbreak of the novel coronavirus COVID-19, and has not been refunded either through travel insurance or other means.

SECTION 2. Eligible students, parents and legal guardians shall be limited to those that actually paid some amount for the costs associated with the Middleborough High School 2020 Senior Trip and have not been fully reimbursed for such costs by any available means.

SECTION 3. Eligible costs shall be limited to those costs actually incurred in relation to the Middleborough High School 2020 Senior Trip and not already reimbursed by any available means, and shall not exceed \$1,030 per student.

SECTION 4. In the event that an eligible parent reimbursed under this Act subsequently obtains reimbursement for eligible costs through settlement or other means, the funds provided hereunder shall be returned to the town treasurer of the town of Middleborough.

SECTION 5. This act shall take effect upon its passage.

Sponsored by the Board of Selectmen

ARTICLE 27. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to authorize the Town, acting by and through the Board of Selectmen and Conservation Commission, to convey to Renee M. Andrews a parcel of conservation land containing 10,000 square feet of land, being part of the Pratt Farm included in a deed recorded in the Plymouth County Registry of Deeds in Book 6673, Page 151, said parcel being a part of Lot 3635 on Middleborough Assessors Map 51 and shown as Lot A on a plan entitled "28 Sachus Street, Middleborough, MA" dated February 19, 2021 and prepared by Allen & Major Associates, Inc., and to authorize the Town to accept in exchange for Lot A conveyance of a parcel of real estate containing 10,000 square feet of land shown as Lot B on said plan dated February 19, 2021 and being a part of Lot 6169 shown on Middleborough Assessors Map 51, Lot B being acquired for conservation purposes to be part of the Pratt Farm under the management and control of the Conservation Commission, or act anything thereon.

Sponsored by the Conservation Commission

ARTICLE 28. To see if the Town will vote to authorize the Board of Selectmen and Conservation Commission to convey to Renee M. Andrews a parcel of conservation land containing 10,000 square feet of land, being part of the Pratt Farm included in a deed recorded in the Plymouth County Registry of Deeds in Book 6673, Page 151, said parcel being a part of Lot 3635 on Middleborough Assessors Map 51 and shown as Lot A on a plan entitled "28 Sachus Street, Middleborough, MA" dated February 19, 2021 and prepared by Allen & Major Associates, Inc., and to authorize the Board of Selectmen and Conservation Commission to accept in exchange for Lot A conveyance of a parcel of real estate containing 10,000 square feet of land shown as Lot B on said plan dated February 19, 2021 and being a part of Lot 6169 shown on Middleborough Assessors Map 51, Lot B being acquired by the Town for conservation purposes to be part of the Pratt Farm under the management and control of the Conservation Commission, or act anything thereon.

Sponsored by the Conservation Commission

ARTICLE 29. To see if the Town will vote to adopt the following by-law to amend Chapter 78, Section 78-1 of the Town's general by-laws:

Notice of every Annual Town Meeting, Special Town Meeting and Town Election shall be given by publishing an attested copy of the warrant calling for a meeting or election in the Middleborough Gazette or some other newspaper in general circulation in the Town of Middleborough, such publication to be at least seven (7) days before the time for an Annual Town Meeting and Town Election and at least fourteen (14) days before the time for a Special Town Meeting, or act anything thereon.

Sponsored by the Town Clerk

ARTICLE 30. To see if the Town will vote to authorize the Board of Selectmen to designate and name in honor of Norman E. Record, former Town Police Officer and Veteran, the roadway intersection area, sometimes known as the Four Corners, consisting of the intersections of Center Street, North Main Street, Wareham Street and South Main Street, and to authorize the Board of Selectmen to erect and maintain one or more suitable plaques, markers and/or signs relating to the designation and naming, at or about the intersection area, or act anything thereon.

Sponsored by the Board of Selectmen

ARTICLE 31: ZONING BYLAW AMENDMENT: SECTION 8.1 FLOODPLAIN DISTRICT (FPD) and SECTION 10.1.1 FLOODPLAIN (OVERLAY) DISTRICT DEFINITIONS

To see if the Town will amend the Town of Middleborough Zoning Bylaws by deleting current Sections 8.1 - Floodplain District and 10.1.1 - Floodplain (Overlay) District Definitions and replacing with the following language.

8.1 FLOODPLAIN DISTRICT (FPD)

8.1.1 Purpose. The purpose of the Floodplain Overlay District is to:

1. Ensure public safety through reducing the threats to life and personal injury;
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions;
6. Reduce damage to public and private property resulting from flooding waters;
7. Discourage individuals from purchasing lands which are unsuitable for intended purposes because of flood hazard;
8. Control filling, grading and mineral extraction which may increase flood damage;
9. Regulate the construction of levees, jetties and other works, which may increase flood damage to lands, which may be subject to flooding.

8.1.2 Location of Floodplain District. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within Middleborough designated on the Plymouth County Flood Insurance Rate Map (FIRM) dated July 6, 2021, issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 6, 2021. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector and Conservation Commission, and are hereby made a part of the Zoning Map and are incorporated herein by reference.

8.1.3 Regulations. A Floodplain District shall be considered to be superimposed over any other district established by this bylaw. Land in a Floodplain District may be used for any purpose otherwise permitted in the underlying district except:

1. No building or structure may be erected in a Floodplain District; provided that the Zoning Board of Appeals may grant a special permit in accordance with the provisions of Section 9.4 for the construction or use of a building or structure which:

(a) Will not be used for sustained human occupancy;

(b) Will not substantially interfere with the natural water storage capacity of the land or the natural flow of water;

(c) Will not constitute a danger to the public health or safety; and

(d) Will not cause any increase in the 100-year floodplain.

2. No dumping, filling, dredging, excavation, transfer or removal of any material which will reduce the natural flood water storage capacity of the land or will interfere with the natural flow of water over the land shall be permitted;

3. If any land included in a Floodplain District is found by the Zoning Board of Appeals not in fact to be subject to seasonal or periodic flooding, the Zoning Board of Appeals may grant a special permit in accordance with the provisions of Section 9.4 for the use of such land for any purpose permitted in the underlying district. The Zoning Board of Appeals may consider the elevation of the particular land, Letter of Map Amendment (LOMA), its history of flooding and any other relevant evidence. The Zoning Board of Appeals may request and consider information on the application from any other public official, board or agency;

4. When an application is made for a building permit and the Building Inspector determines that said use of land is within the Floodplain District, the Building Inspector shall require the applicant for such permit to provide, as part of the application, a plan of the lot on which such building is intended to be built showing the land contours in two-foot intervals, related to elevations above mean sea level, indicating the benchmarks used and certified by a registered land surveyor.

5. The provisions of Section 8.1 shall not apply to any building or structure in a Floodplain District that was in existence at the time of the adoption of Section 8.1 and notwithstanding the provisions of Section 3.3, such buildings may be repaired, restored, altered, enlarged or rebuilt in compliance with all other zoning laws and applicable state and municipal laws and regulations, provided that any such altered, enlarged or rebuilt building shall not affect the natural flow patterns of any watercourse.

8.1.4 Requirement to Submit New Technical Data. If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Floodplain Administrator will, within six (6) months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High Street, 6th Floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

8.1.5 Variances to Building Code Floodplain Standards. The Floodplain Administrator will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

The Floodplain Administrator shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

8.1.6 Variances to Local Zoning Bylaws Related to Community Compliance with the National Flood Insurance Program (NFIP). A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

8.1.7 Permitted Uses. The following uses of low flood damage potential and causing no obstructions to flood flows are allowed, provided they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment:

1. Agricultural uses such as farming, grazing, truck farming and horticulture;
2. Forestry and nursery uses;
3. Outdoor recreational uses, including fishing, boating, hunting and play areas;
4. Conservation of water, plants and wildlife;
5. Wildlife management areas, foot, bicycle and/or horse paths;
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises;
7. Recreational Vehicles. In A1 – A30, AH, AE Zones, V1-V30, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone’s regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

8.1.8 Permits are Required for all Proposed Development in the Floodplain Overlay District. The Town of Middleborough requires a permit for all proposed construction or other development within the floodplain overlay district, including new construction or changes to existing building, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

8.1.9 Assure that All Necessary Permits Are Obtained. Middleborough’s permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.

8.1.10 Subdivision Proposals. All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

- (a) Such proposals minimize flood damage;
- (b) Public utilities and facilities are located and constructed so as to minimize flood damage;
- (c) Adequate drainage is provided.

8.1.11 Base Flood Elevation Data for Subdivision Proposals. When proposing subdivision or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

8.1.12 Unnumbered A Zones. In A Zones, in the absence of FEMA BFE data and floodway data, the Building Department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for flood proofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

8.1.13 Floodway Encroachment. In Zones A, A1 – A30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways, which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In Zones A1 – A30 and AE, along watercourses that have a regulatory floodway designed on the Town's FIRM encroachments are prohibited in the regulatory floodway, which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

8.1.14 Watercourse Alterations or Relocations in Riverine Areas. In a riverine situation, the Conservation Agent shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream
- Bordering States, if affected
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th floor
Boston, MA 02114
- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th floor
Boston, MA 02110

8.1.15 AO and AH Zones Drainage Requirements. Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

8.1.16 Local Enforcement. All building permits and proposed development projects shall be reviewed with respect to proper identification of known or possible flood risk as mapped on the FEMA Flood Insurance Rate Map, or as otherwise defined within this bylaw through submittal of any required information, prior to issuance of a building or development permit, so that sufficient information is available to the permitting agent(s) with respect to meeting the requirements of this bylaw and compliance with applicable codes and regulations associated with the proposed development or activity as they relate to the flood risk. All work proposed shall meet the requirements of this bylaw as described herein.

8.1.17 Administration.

- 1) Abrogation and Greater Restrictions. The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.
- 2) Disclaimer of Liability. The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.
- 3) Severability. If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the bylaw shall be effective.

- 4) Designation of Community Floodplain Administrator. The Town of Middleborough hereby designates the position of Town Planner to be the official floodplain administrator for the Town.

AND

10.1.1 Floodplain (Overlay) District Definitions

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM.) An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having

jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE means a grant of relief by a community from the terms of a floodplain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59], or act anything thereon.

Sponsored by the Planning Board

ARTICLE 32. To see if the Town will vote to extend M.G.L. Chapter 59, §5, Clause 56 which would allow members of the Massachusetts National Guard or military reservists who are on active duty to obtain a reduction of all or part of their real and personal property taxes for any fiscal year in which they are serving in a foreign country, or act anything thereon.

Sponsored by the Board of Assessors

Given, under our hands at Middleborough, this day of April 2021

Leilani Dalpe, Chairman

Arthur Battistini, Vice Chairman

Neil Rosenthal

Nathan Demers

Mark Germain

BOARD OF SELECTMEN

Pursuant to the instructions contained in the above warrant, I have notified and warned all inhabitants of said Town of Middleborough, qualified to vote as expressed in said warrant, to meet at the time and place for the purpose specified by causing an attested copy of the same to be published in the Middleboro Gazette on the 15th day of April 2021, that date being more than seven days before the time specified for said meeting.

Joseph Perkins
Police Chief