CHARTER

TOWN MANAGER GOVERNMENT

MIDDLEBOROUGH, MASSACHUSETTS

CHAPTER 592 ACTS 1920

WITH AMENDMENTS

REVISED: JUNE 13, 1995

AN ACT TO ESTABLISH A TOWN MANAGER FORM OF GOVERNMENT FOR THE TOWN OF MIDDLEBOROUGH

SECTION ONE: The annual town election shall be held on the first Saturday in April. The annual town meeting shall be held on the fourth Monday in April.

(As amended October 20, 1976)

SECTION TWO: At each annual town election, the voters shall elect by official ballot, in place of those Selectmen whose terms are about to expire, an equal number of Selectmen, each to serve for three years. The Selectmen shall serve until their successors are elected and have qualified. If, unless as the result of a recall election, a vacancy or vacancies shall occur in the membership of the Selectmen, the remaining members shall call a special town election to fill the vacancy or vacancies for the unexpired term or terms, except that, if such vacancy or vacancies occur less than three months prior to the annual town election, and not less than three Selectmen remain in office, the same shall remain unfilled until such annual election. Any vacancy resulting from a recall election shall be filled as hereinafter provided in this act.

SECTION THREE: Upon the election and qualification of the Selectmen as provided in Section 2, all the powers, rights, duties and liabilities conferred or imposed by law upon the Water Commissioners, Board of Health and Auditors shall be transferred to and conferred and imposed upon the Selectmen and the Officers of Water Commissioners, Board of Health and Auditors of the Town of Middleborough shall be abolished. The foresaid transfer of rights, powers, duties and liabilities shall not affect any liability incurred, contract made, fine, special assessment, rate, penalty, forfeiture or tax imposed before such transfer, nor any suit or other proceeding pending; and the Selectmen for all purposes whatsoever, shall be the lawful successors of the boards and officers whose powers are hereby transferred to them.

The Selectmen shall also act as surveyors of highways of the town with all the powers and duties conferred or imposed by law upon surveyors of highways,

(Action taken at June 13, 1995 Annual Town Meeting)
(Amendment approved by Governor June 25, 1996)

The Board of Selectmen are hereby authorized to appoint one or more fish wardens qualified to act as such, who shall be sworn to the faithful discharge of their duty in enforcing the provisions of law regarding fishing in the town.

(Action taken at June 13, 1995 Annual Town Meeting)
(Amendment approved by Governor June 25, 1996)

The Selectmen shall also appoint such officers including Fence Viewers, Field Drivers, Surveyors of Wood and Lumber, Tree Warden and Constables and such officers as are necessary to perform the duties of offices hereby abolished as hereinafter provided.

SECTION 3A: At the annual town election, the voters shall elect a Municipal Light Board, consisting of five members, two of whom shall be elected for the term of three years, two for the term of two years and one for the term of one year. The successors of members whose term shall thereafter expire shall be elected to hold office for three years. A vacancy in the Board shall be filled in accordance with the provisions of Section Eleven of Chapter Forty-one of the General Laws. The Municipal Light Board so elected shall have and exercise all the powers and rights and be subject to all the duties and

liabilities now or hereafter conferred or imposed by law upon town Municipal Light Boards. **(As amended October 26, 1981)**

FINANCE COMMITTEE

SECTION FOUR: There shall be a Finance Committee, hereinafter and in sections five and six called the Committee, consisting of seven persons. At the annual town meeting in the year Nineteen Hundred and Thirty-seven, or at a Special Town Meeting held prior thereto for the purpose, the town shall elect by official ballot three members of the committee until the expiration of three years, and two members until the expiration of two years, and two members until the expiration of one year from the date of said Annual Town Meeting, and thereafter at each annual town meeting of the successors of members whose terms shall then expire shall be elected to hold office for three years. Any vacancy occurring in the Committee shall be filled by the election, at the next annual town meeting, of a person to serve for the unexpired term and until such election said vacancy shall be filled by majority vote of the remaining members of the Committee and the members of the Board of Selectmen, meeting in joint convention.

The members of the committee shall serve during the term for which they are elected and until their successors are qualified. They shall be sworn to the faithful performance of their duties, shall serve without salary and **shall not hold any other town office or employment.**

SECTION FIVE: The committee shall consider and advise as to all matters relating to proposed appropriation and the matter of raising the amounts appropriated, and shall report in writing at each town meeting on all articles in the warrant relating to the appropriations or borrowing of money or the indebtedness of the town, with the exception of its action on the annual budget.

The committee may make recommendations in writing at any time to the town, or to the Board of Selectmen, relating to the financial affairs of the town. It shall submit to the town at the Annual Town Meeting a report showing appropriations recommended for each fund or department, the estimated income from all sources, exclusive of taxes on property and poll taxes, the amount required to meet charges for interest and maturing indebtedness, and the estimated amount to be levied and raised by taxation to meet all expenses and liabilities of the town. Said report shall be filed with the Town Clerk on or before fifteen days prior to the fourth Monday of April; however, if not timely filed there will be no adverse affect to any action taken at town meeting.

For the purpose of enabling the committee to perform its duties all Boards, Committees and Officers of town shall, on or before the twentieth day of January of each year, submit to the committee in writing, a detailed estimate of the appropriations required for the efficient and proper conduct of the departments under their charge during the ensuing fiscal year, and of all items of income to be received by such departments during said year and shall at any time, furnish any other information relative thereto in their possession which may be requested in writing by the committee.

The Committee is hereby authorized to incur such expenses, as it may deem necessary, including the cost of the employment of experts and other assistants and the cost of printing its reports; provided, that such expenses shall not exceed, in the aggregate, the sum of two hundred and fifty dollars in any one year, unless a larger amount shall be appropriated for the purpose by the committee.

Nothing herein shall be construed as limiting the power of the town to impose additional duties on the committee, in accordance with Section Sixteen of Chapter Thirty-nine of the General Laws.

APPROVAL OF BILLS, PAYROLLS AND CLAIMS

SECTION SIX: No bill or payroll contracted by the Town Manager or by any department under the supervision of the Selectmen shall be paid by the Town Treasurer until such bill or payroll shall have been approved by the Selectmen. The Selectmen may designate one or more of their members to make such approval, but this provision shall not limit the responsibility of each member of the Board. Whenever any payroll, bill or other claim against the town is presented to the Town Manager, Town Clerk, Town Treasurer and Collector of Taxes or Trustees of the Public Library, he or they shall, if the same seems to him or them to be of doubtful validity, excessive in amount, or otherwise contrary to the interests of the town, refer it to the committee who shall immediately investigate the fact and report their findings and recommendations to the Selectmen who shall determine what, if any, payment should be made. Pending such investigation and determination, payment shall be withheld.

SELECTMEN MAY EMPLOY EXPERTS

SECTION SEVEN: For the purpose of making investigations relative to the conduct of the town departments, the Selectmen may employ such experts, counsel and other assistants, and incur such other expenses as they may deem necessary, and the same shall be paid by the town upon requisition by the Selectmen, not exceeding in the aggregate in any year the sum of Two Hundred and Fifty Dollars or such additional sum may be appropriated for the purpose of the town.

SCHOOL COMMITTEE

SECTION EIGHT: Nothing in this act shall be construed as effecting the election, powers and duties of the School Committee as now provided by law, except as hereinafter provided.

TOWN TREASURER AND COLLECTOR OF TAXES

SECTION NINE: At each annual town meeting, except as hereinafter provided, the town shall elect by ballot a town officer to be know as the Town Treasurer and Collector of Taxes. The Town Treasurer and Collector of Taxes so elected shall have and exercise all the powers and rights and be subject to all the duties and liabilities now or hereafter conferred or imposed by law upon Town Treasurers and Collectors of Taxes. Said Town

Treasurer and Collector of Taxes shall receive such compensation for his services as the town may fix. The town may by by-law, from time to time, fix the term of office of the Town Treasurer and Collector of Taxes at one, two, or three years, but such by-law shall not operate to increase or decrease the term of an incumbent of said office. If the term of said office is changed as herein provided the successor of an incumbent serving a two or three-year term shall be elected at the Annual Town Meeting in the last year of the term for which he was elected.

TOWN CLERK

SECTION TEN: The Selectmen elected as provided in Section Two shall appoint a suitable qualified person to the office of Town Clerk. The existing elective office of Town Clerk shall be continued until the person appointed to said office of Town Clerk shall have qualified, at which time the elective office of Town Clerk shall terminate. The Town Clerk shall enjoy all the powers and rights and be subject to all the duties and liabilities now and hereinafter conferred or imposed by law upon Town Clerks. He shall hold office during the pleasure of the Selectmen, and shall be sworn to the faithful performance of his duties by the Chairman of Selectmen or by a Justice of the Peace. In case of death, resignation or removal from office of the town Clerk, the Selectmen shall forthwith appoint a suitably qualified person to fill the vacancy.

ASSESSORS

SECTION ELEVEN: At each annual town meeting beginning with the year Nineteen Hundred and Thirty-seven, the town shall elect by official ballot one Assessor for the term of three years to succeed the Assessor whose term shall then expire. Any vacancy occurring in the office of an Assessor shall be filled in the manner provided by General Law. The Assessors shall have and exercise all the powers and rights and be subject to all the duties and liabilities now or hereafter conferred or imposed by law upon Assessors of towns. Before entering upon the duties of their office, they shall be sworn to the faithful performance thereof as provided by General Law.

LIBRARY TRUSTEES

SECTION TWELVE: The Selectmen shall, in February, Nineteen Hundred and Twenty-one, appoint nine library trustees, three of whom shall be appointed for the term of three years, three for the term of two years and three for the term of one year, from the first day of March in that year; and annually thereafter, in February, the Selectmen shall appoint in the place of those whose terms are about to expire, an equal number, each to serve for the term of three years from the following first day of March. A vacancy in the Board of Trustees shall be filled by appointment by the Selectmen for the residue of the term. Upon the appointment of library trustees hereunder, the term of any Library Trustee then in office shall terminate.

PUBLIC WELFARE DEPARTMENT

SECTION THIRTEEN: The Selectmen shall have and exercise all the powers and rights and be subject to all the duties and liabilities now or hereafter conferred or imposed by law upon boards of public welfare in towns, and the Town Manager, under their supervision, shall administer the welfare relief of the town either directly or through a person or persons appointed by him.

POLICE DEPARTMENT

SECTION FOURTEEN:

(A) The Board of Selectmen shall appoint a Chief of Police and such other police officers as they may deem necessary, and shall fix their compensation.

(B) Police Officers may be removed at the pleasure of the Selectmen, except that the tenure of office of the Chief shall, after he has served five continuous years, continue during good behavior, as long as he is able to perform duties of his office; and he shall not be removed except after hearing by the Selectmen on written charges, a copy of which shall be furnished to him prior to the hearing.

(C) The Chief of Police shall be in immediate control of all town property used by the department, and of the police officers who shall obey his orders.

(D) The Chief and other police officers shall suppress and prevent disturbances and disorder. During the night time they may examine all persons abroad whom they have reason to suspect of unlawful design, and may demand of them their business abroad and whither they are going; may disperse any assembly of three or more persons and may enter any building to suppress a riot or breach of peace therein. Persons so suspected who do not give satisfactory account of themselves, persons so assembled who do not disperse when so ordered, and persons making, aiding or abetting a riot or disturbance, may be arrested by the police and may thereafter safely be kept by imprisonment or otherwise, unless released in the manner provided by the law, and taken before a Police, District or Municipal Court or Trial Justice for examination or prosecution. They shall have all the powers and duties of Constables except those of serving and executing civil process.

(E) The Selectmen may make suitable regulations governing the organization of the Police Department and the officers thereof.

CONSTABLES

SECTION FIFTEEN: The Selectmen shall appoint two or more Constables annually in February, each for the term of one year from the following first day of March, and may at any time appoint such additional Constables as in their opinion may be necessary, who shall hold office during the pleasure of the Selectmen but not beyond the first day of March following the date of their appointment.

FIRE DEPARTMENT

SECTION SIXTEEN; The Chief of the Fire Department shall be appointed by the Selectmen, and shall receive such salary as the Selectmen may from time to time determine, not exceeding the amount annually appropriated therefore. He may be removed for cause by the Selectmen at any time after a hearing. He shall have charge of extinguishing fires in the town and the protection of life and property in case of fire. He shall purchase, subject to the approval of the Selectmen, and keep in repair all property and apparatus used for and by the Fire Department. He shall have and exercise all the powers and rights and be subject to all the duties and liabilities conferred or imposed by law upon engineers in towns, except as herein provided, and shall appoint a Deputy Chief and such officers and firemen as he may think necessary, and may remove the same at any time for cause and after a hearing. He shall have full and absolute authority in the administration of the Department, shall make all rules and regulations for its operation, shall report to the Selectmen from time to time as they may require, and shall annually report to the town the condition of the Department with his recommendations thereon. He shall fix the compensation of the permanent and call members of the fire department, subject to the approval of the Selectmen. In the expenditure of money, the Chief shall be subject to such further limitations as the town may from time to time prescribe.

LEGAL AFFAIRS

SECTION SEVENTEEN:

(A) The Board of Selectmen shall annually appoint an Attorney at Law to act as Town Counsel, who shall be paid such salary as the town votes.

(B) The Board of Selectmen shall have authority to prosecute, defend and compromise all litigation to which the town is a party, and to employ special counsel to assist the Town Counsel whenever in their judgement it may be necessary.

The Town Counsel shall draft all bonds, deeds, leases, obligations, conveyances and other legal instruments, and do every professional act which may be required of him, by vote of the town or any Board of the town officers. Also, when so required by said Boards or any Committee of the town, he shall furnish a written opinion on any question that may be submitted to him, and he shall at all times furnish legal advice to any officer of the town who may require his opinion upon any subject concerning the duties of such office.

He shall prosecute all suits or other legal proceedings ordered to be brought by the town or Board of Selectmen, and shall appear before any court in the Commonwealth in defense of all actions or suits brought against the town or its officers in their official capacity, and shall try and argue any and all causes in which the town shall be a party, or before any tribunal whether in law or in equity, in the Commonwealth, or before any Board of Referees or Commission, and shall appear at any and all hearings on behalf of the town whenever his services may be required.

(C) Whenever it shall be necessary to execute any deed, conveying land, or any other instrument required to carry into effect any vote of the town, the same

shall be executed by the Treasurer in behalf of the town, unless the town shall vote otherwise.

TOWN MANAGER

SECTION EIGHTEEN: The Selectmen, elected as provided in Section Two shall appoint, as soon as practicable, a Town Manager who shall be the administrative head of all departments of the town government, the conduct of which is by the General Laws and by this act placed upon the Selectmen of the town, except as provided otherwise in this act. The Town Manager shall be subject to the direction and supervision, and shall hold office at the will of the Selectmen, and shall be a person specially fitted by education, training or experience to perform the duties of the office. He shall be appointed without regard to his political belief and he may or may not, when appointed, be a resident of the town or state. He shall be responsible for the efficient administration of all departments within the scope of his duties. Before entering upon the duties of his office, the Town Manager shall be sworn to the faithful and impartial performance thereof by the Chairman of the Selectmen, or by the Town Clerk, or by a Justice of the Peace. He shall execute a bond in favor of the town for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed or approved by the selectmen.

POWERS AND DUTIES

SECTION NINETEEN: The powers and duties of the Town Manager shall include the following:

(A) To organize, continue, or discontinue such divisions or departments from time to time as may be determined by vote of the Selectmen not inconsistent with the provisions of this act.

(B) To appoint upon merit and fitness alone and, except as otherwise provided herein, to remove all Superintendents or Chiefs of departments and all subordinate officers and employees in such departments, and to fix all salaries and wages of all subordinates and employees subject to law. The Superintendent or Chief of departments shall not be removed by the Town Manager, except on five days notice in writing which shall state the cause of such removal.

(C) To exercise control of all departments or divisions made subject to his supervision.

(D) To attend all regular meetings of the Selectmen, and to recommend to the Selectmen for adoption such measures requiring action by them or by the town as he may deem necessary or expedient.

(E) To keep full and complete records of his office and to render as often as may be required by the Selectmen a full report of all operations during the period reported on; and annually or oftener if required by the Selectmen, to make a synopsis of all the reports for publication.

(F) To keep the Selectmen fully advised as to the needs of the town within the scope of his duties, and to furnish the Selectmen in writing on or before the Thirty-first day of December of each year with a detailed list of the appropriations required during the next ensuing fiscal year for the proper conduct of all departments of the town under his control.

(G) To keep in repair all the town buildings.

(H) To purchase all supplies and materials for all departments of the town expect books for schools.

(I) To administer the health regulations of the town as required by the by-laws, or by the Selectmen, in addition to those provided by statute, either directly or through a person appointed by him, to be designated as the Health Officer, and under the supervision of the Selectmen exercising the powers of the Board of Health.

(J) To perform such other duties, consistent with his office, as may be required of him by the by-laws of the town, or by vote of the Selectmen.

EXAMINATION OF DEPARTMENTS

SECTION TWENTY: The Town Manager may without notice cause the affairs of any division or department under his control or the conduct of any officer or employee thereof to be examined. The Town Manager shall have access to all town books and papers for information necessary for the proper performance of his duties.

TOWN MANAGER MAY BE REMOVED FOR CAUSE

SECTION TWENTY-ONE: The Selectmen, by a majority vote, may remove the Town Manager by filing a written statement with the Town Clerk setting forth in detail the specific reasons for his removal, a copy of which statement shall be delivered to the Town Manager. Such removal shall not take effect until the expiration of five days after the filing of the statement with the Town Clerk, but if it is so recited in the statement the Town Manager shall be suspended from office forthwith. If the Town Manager so requests within the said five day period, a public hearing shall be given to him by the Selectmen, and in that event the removal of the Town Manager shall not take effect until a written decision following the hearing shall have been filed with the Town Clerk. Such decision by a majority vote of the Selectmen shall be final.

VACANCY

SECTION TWENTY-TWO: Any vacancy in the office of Town Manager shall be filled as soon as possible by the Selectmen. Pending the appointment of a Town Manager or the filling of any vacancy, the Selectmen may appoint a person to perform temporarily the duties of the office.

HOLDER OF AN ELECTIVE OFFICE MAY BE RECALLED, ETC.

SECTION TWENTY-THREE: Any holder of an elective office may be recalled therefrom by the registered voters of the town as herein provided.

RECALL PETITION, PREPARATION, FILING

SECTION TWENTY-FOUR: One Hundred or more qualified voters may make and file with the Town Clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The Town Clerk shall thereupon deliver to the ten persons first named on such affidavit a sufficient number of petition blanks demanding such recall, copies of which printed forms he shall keep available. Said petition blanks may be completed by printing or typewriter and they shall contain the names of the ten persons to whom they are issued, the name of the person sought to be recalled, the office from which recall is sought, and the grounds for recall as stated in the affidavit. They shall demand the election of a successor to the office and they shall be dated, signed and sealed by the Town Clerk. Said recall petition shall be returned to the office of the Town Clerk not later than five o'clock in the afternoon on or before the first work day following twenty days after the date they are issued, signed by at least eight hundred qualified persons registered to vote in the town as of the date such affidavit was filed with the Town Clerk. To every signature shall be added the place of residence of the signer, giving the street and number, if any. One of the ten persons to whom the recall petition forms is issued shall make an affidavit on each page that statements therein contained are true, and that each signature appended to the petition is the genuine signature of the person whose name it purports to be.

The Town Clerk shall, within seventy-two hours following the day of such filing with the office of the Town Clerk, submit the recall petition forms to the Board of Registrars of voters which shall, within five working days after the day of receipt, certify in writing thereon the number of signatures which are those of qualified persons registered to vote in the town as of the date such affidavit was filed with the Town Clerk. The Board of Registrars of voters, upon the completion of their certification, shall return the recall petition forms to the Town Clerk.

SECTION TWENTY-FIVE: If said recall petition forms shall be certified by the Board of Registrars of voters to contain at least eight hundred qualified persons registered to vote, and if the petition shall be found and certified by the Town Clerk to be sufficient, the Town Clerk shall give notice without delay, in writing, to the elected officer whose recall is sought by sending to said officer a copy of the affidavit and the recall petition form together with notice of the number of qualified voters certified by the Board of Registrars of voters who signed the recall petition forms and the total number of qualified voters in the town as of the most recent town election.

If the officer to whom notice is directed by the Town Clerk does not resign the office within five days following receipt of the aforesaid notice from the Town Clerk, the Town

Clerk shall give notice in writing to the Board of Selectmen not later than one working day following the expiration of the foregoing five days. The Board of Selectmen shall order a special election to be held not less than sixty nor more than ninety days after the receipt of notice from the Town Clerk as aforesaid.

If, however, any other town election is to be held within one hundred days of receipt by the Board of Selectmen of notice from the Town Clerk, the recall election shall be postponed and shall be held at such time and in conjunction with such other election. If a vacancy occurs in the office for any reason after a recall election has been ordered by the Board of Selectmen, the recall election shall nevertheless proceed as provided for herein.

SECTION TWENTY-SIX: Any officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the Town Clerk shall place his name on the ballot without nomination. The number of signatures of qualified voters required to place the name of a candidate on the official ballot for use at a recall election shall not be less than fifty. The publication of the warrant for the recall election and the conduct of the recall election shall be in accordance with the General Laws regulating elections, unless otherwise provided in this act.

RECALL ELECTION

SECTION TWENTY-SEVEN: The incumbent shall continue to perform the duties of this office until the recall election. If then re-elected, he shall continue in office for the remainder of his unexpired term subject to recall as before, except as provided in section thirty. If not re-elected in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

SECTION TWENTY-EIGHT: The ballots used at the recall election shall submit the following proposition in the order indicated;

For the recall of (name of officer)
Against the recall of (name of officer)

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (x) may vote for either of such propositions. Under the propositions shall appear the word "Candidates" and the direction for the voters required by law and beneath the work "Candidates" shall be the names of candidates nominated as hereinabove provided. The ballots used in a recall election shall be substantially in the following form:

RECALL ELECTION
(Month and Day of Month and Year)

FOR THE RECALL OF (Name in full)_____
AGAINST THE RECALL OF (Name in full)_____

CANDIDATES

Vote for One

(Name of Candidate)_____

SECTION TWENTY-NINE: No recall petition shall be filed against an officer within six months after he takes office, nor in the name of an officer subjected to a recall election and not removed thereby, until at least six months after that election.

PERSONS REMOVED NOT TO BE APPOINTED TO ANY TOWN OFFICE WITHIN TWO YEARS

SECTION THIRTY: No person who has been removed from an office by recall, or who has resigned from office while recall proceedings were pending against him, shall be appointed to any town office within two years after such removal by recall or such resignation. **(As amended June 14, 1993)**

SALARIES

SECTION THIRTY-ONE: The Board of Selectmen shall determine the compensation of all offices appointed by them.

CERTAIN TOWN OFFICERS NOT TO MAKE CONTRACTS WITH THE TOWN (PENALTY)

SECTION THIRTY-TWO: It shall be unlawful for any Selectman, the Town Manager, any member of the School Committee, any Trustee of the Public Library, or any other elective or appointive official except as otherwise provided by law, or by this act, directly or indirectly to make a contract with the town, or to receive any commission, discount, bonus, gift, contribution or reward from, or any share in the profits of, any person or corporation making or performing such a contract, unless such member, officer or employee immediately upon learning of existence of such contract, or that such contract is proposed, shall notify the Selectmen in writing of the contract and of the nature of his interest therein and shall abstain from doing any official act on behalf of the town in reference thereto. In case such interest exists on the part of an officer whose duty it is to make such a contract on behalf of the town, the contract may be made by another officer or person of the town, duly authorized thereto by vote of the town. A violation of any provision of this section shall render the contract in respect to which such violation occurs voidable at the option of the town. Any person violating any provision of this section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year or by both such fine and imprisonment.

SECTION THIRTY-THREE: This act shall be submitted to the qualified voters of the Town of Middleborough at a special election, which shall be called by the Selectmen.

The vote shall be taken by ballot in answer to the following question: "Shall an act passed by the General Court in the year of Nineteen Hundred and Twenty, entitled 'An act to establish a Town Manager form of government for the Town of Middleborough' be accepted" which shall be printed on the official ballot. If the act is accepted by a majority of the qualified voters voting thereon, it shall take effect forthwith for the purpose of the next annual town meeting which shall be held on the third Monday of January, in the year Nineteen Hundred Twenty-one, and for all things pertaining thereto and shall take full effect upon the election of the Selectmen and other town officials on the said third Monday of January. Appointees of the officers and boards abolished or consolidated by this act shall continue to draw compensation at the same rate and to exercise like powers, authority and jurisdiction as theretofore until other provision is made.

DUTIES OF CERTAIN TOWN OFFICIALS RELATIVE TO ELECTION

SECTION THIRTY-FOUR: It shall be the duty of the Selectmen and the Town Clerk in office and other town officials upon whom by reason of his office a duty devolves by the provisions of this act, when this act is accepted by the qualified voters as herein provided, to comply with all the requirements of this act relating to elections, to the end that all things may be done necessary for the nomination and the election of the officers first to be elected under this act.

BY-LAWS, RULES

SECTION THIRTY-FIVE: All laws, by-laws, rules and regulations in force in the Town of Middleborough when this proposed act takes effect, not inconsistent with its provisions, whether enacted by authority of the Town or any other authority, shall continue in full force and effect until it is otherwise provided by law, by-law, or vote; all other laws, by-laws, rules and regulations, so far as they refer to the Town of Middleborough, are hereby repealed and annulled, but such repeal shall not revive any pre-existing enactment.

REVOCATION OF ACCEPTANCE

SECTION THIRTY-SIX: At any time in the year Nineteen Hundred and Forty or any subsequent year, but not less than ninety days before the date of an Annual Town Meeting, a petition signed by not less than twenty-five percent of the registered voters of the town may be filed with the Selectmen, requesting that the question of revoking the acceptance of this act be submitted to the voters. Thereupon the Selectmen shall call a town meeting to be held at a date not later than forty-five days after the filing of the petition, unless such requirement would cause such meeting to be held between the fifteenth day of June and first Tuesday of September, in which event such meeting shall be called within ten days after the first Tuesday of September. At such meeting the vote shall be taken in answer to the following question, which shall be printed on the official ballot: "Shall the acceptance by the Town of Middleborough of an act passed by the General Court in the year Nineteen Hundred and Twenty, entitled 'An act to establish a Town Manager form of government for the Town of Middleborough', and all amendments thereto, be revoked?" If such revocation is favored by a majority of the voters voting thereon by ballot, the next annual town meeting shall be called by the Selectmen in office and shall be held in accordance with the provisions of general law

relating thereto. At such meeting, town officers shall be elected in accordance with the provisions of general law, who shall have the powers therein provided, and upon the qualification of the officers so elected, the terms of the town officers existing under the provisions of this act shall cease. Until such next annual town meeting and the election and qualification of such officers as provided by general law, the existing form of town government shall continue under the provisions of this act and all powers and duties of the town officers therein provided for shall continue. After such next annual town meeting and the qualification of the town officers elected thereat, the provisions of this act shall cease to apply, and thereafter all provisions of general laws relative to town government and town officers shall apply to the Town of Middleborough. Any special laws relative to said town, which are appealed by this act, shall be revived when such revocation takes effect. By-laws in force when such revocation takes effect, so as they are consistent with the general laws respecting town government and town officers are with said special laws, if any shall not be effected thereby.

This act (meaning amendments) shall be submitted to the qualified voters of the Town of Middleborough at the annual town meeting in the year Nineteen Hundred and Thirty-six. The vote shall be taken by ballot in answer to the following question, which shall be printed on the official ballot: "Shall an act by the General Court in the year nineteen Hundred and Thirty-five, entitled 'An act providing for certain changes in the Town Manager form of government in the Town of Middleboro' be accepted?" If this act is accepted by a majority of the qualified voters voting thereon it shall thereupon take full effect.

CHARTER AMENDMENT

APPROVED BY

THE GOVERNOR

ON

JANUARY 5, 2011

S 2617

Chapter 425.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Ten

AN ACT AMENDING THE CHARTER OF THE TOWN OF MIDDLEBOROUGH.

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. Chapter 592 of the acts of 1920, as amended by section 3 of chapter 443 of the acts of 1935, is hereby further amended by striking out section 9 and inserting in place thereof the following section:-

. . . . . .

SECTION 2. Section 17 of said chapter 592 is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following 2 subsections:-

(a) The board of selectmen shall annually appoint and determine the compensation of an attorney or law firm to act as town counsel.

(b) The board of selectmen may prosecute, defend and compromise all litigation, to which the town is a party, and appoint and determine the compensation of special counsel to assist the town counsel whenever it deems necessary.

The town counsel shall draft all bonds, deeds, leases, obligations, conveyances and other legal instruments and do every professional act which may be required of him by vote of the town or any board of town officers. The town counsel shall furnish a written opinion on any question that may be submitted thereto by such board or any committee of the town and shall at all times furnish legal advice to any officer of the town who may require an opinion upon any subject concerning the duties of such officer.

The town counsel shall prosecute all suits or other legal proceedings ordered to be brought by the town or the board of selectmen, appear before any court in the commonwealth in defense of all actions or suits brought against the town or its officers in their official capacity, try and argue all causes in which the town shall be a party before any tribunal, whether in law or in equity, in the commonwealth or before a board of referees or commission, and appear at all hearings on behalf of the town whenever town counsel services may be required.

SECTION 3. Section 19 of said chapter 592 is hereby amended by adding the following 3 subsections:-

(k) To prepare and submit an annual operating budget to the board of selectmen. The proposed budget shall include, but not be limited to, a listing of the funds requested by all boards, committees, officers and departments of the town; provided, however, that the proposed budget shall be balanced and show both proposed expenditures and anticipated revenues. After reviewing the proposed budget and making changes it deems appropriate, the board of selectmen shall submit its recommended budget to the finance committee not later than the twentieth day of January of each year for review and recommendation of town meeting.

(l) To annually prepare a 5-year financial forecast of town revenue, expenditures and general finance condition of the town. The forecast shall be submitted to the board of selectmen who shall make it available to the public.

(m) To be responsible, on behalf of the board of selectmen, for the negotiation, administration and enforcement of collective bargaining agreements and other employment agreements, exclusive of agreements made by the school committee and the municipal light board. In carrying out duties hereunder, the town manager may engage labor counsel as the town manager deems necessary and with the approval of the board of selectmen; provided, however, that the board of selectmen shall retain sole authority to approve and execute all collective bargaining agreements negotiated by the town manager on the board of selectmen's behalf.

SECTION 4. Notwithstanding any general or special law to the contrary, the board of selectmen of the town of Middleborough shall appoint the person serving in the elective office of town treasurer and collector of taxes on the effective date of this act as the initial appointee as town treasurer and collector of taxes; provided, however, that the person shall receive not less than the compensation and benefits to which the elected town treasurer and collector of taxes was entitled unless modified by an employment contract. The elective office of town treasurer and collector of taxes shall terminate on the effective date of this act.

House of Representatives, December 30, 2010.

Passed to be enacted, PAUL J. DONATO, Acting Speaker.

In Senate, December 30, 2010.

Passed to be enacted, STEVEN A. TOLMAN, Acting President.

January 5, 2011.

Approved,

DEVAL PATRICK, Governor.