

HOUSE No. 3495

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen Kulik and Benjamin B. Downing

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing for recall elections in the town of Middlefield.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Stephen Kulik</i>	<i>1st Franklin</i>	
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	

HOUSE No. 3495

By Representative Kulik of Worthington and Senator Downing, a joint petition (accompanied by bill, House, No. 3495) of Stephen Kulik and Benjamin B. Downing (by vote of the town) for legislation to provide for recall elections in the town of Middlefield. Election Laws. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act providing for recall elections in the town of Middlefield.

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

1 SECTION 1. A holder of an elected office in the town of Middlefield may be recalled
2 from such office by the registered voters of the town as provided in this act.

3 SECTION 2. Any 50 registered voters of the town of Middlefield may file with the town
4 clerk a recall affidavit, using either a blank recall affidavit as prepared by the town clerk or a
5 substantially similar affidavit, containing the name and position of the person holding an elected
6 office whose recall is sought and a statement of the grounds for the recall. Upon certification of
7 the required signatures, the clerk shall forthwith deliver to the first named voter on the affidavit
8 copies of petition blanks addressed to the board of selectmen demanding the recall, copies of
9 which printed forms the town clerk shall keep available. The blanks shall be issued by the clerk
10 with the signature and official seal of the clerk attached thereto. They shall be dated, shall
11 contain the names of the first 50 registered voters whose names appear on the recall affidavit, the
12 name and position of the person holding an elected office whose recall is sought and the grounds
13 of recall, including but not limited to malfeasance or misfeasance, as stated in the affidavit and
14 shall demand the election of a successor to the office. On the date the affidavit is filed, the clerk
15 shall determine and inform the first named voter on the affidavit the number of signatures needed
16 to achieve the 25 per cent of registered voters. A copy of the petition shall be entered in a record
17 book to be kept in the office of the clerk. The recall petition shall be returned and filed with the
18 clerk not later than a 35-day period from the date the affidavit is filed. The recall petition shall
19 have been signed by at least 25 per cent of the registered voters of the town as of the date the
20 affidavit is filed. To every signature shall be added the place of residence of the signer, giving
21 the street and number, if any. The clerk shall, within 72 hours of receipt thereof, submit the

22 petition to the registrars of voters in the town, and the registrars shall forthwith certify thereon
23 the number of signatures which are the names of registered voters of the town.

24 SECTION 3. If the petition is certified by the town clerk to be sufficient, the town clerk
25 shall submit the petition with the town clerk's certification to the board of selectmen without
26 delay. The board of selectmen shall forthwith give written notice of the receipt of the certificate,
27 either by hand or by certified mail, return receipt requested, to the person holding an elected
28 office sought to be recalled. If the person holding an elected office does not resign within 5 days
29 after receipt of the notice, the board of selectmen shall forthwith order an election to be held on a
30 date fixed by them not less than 64 days and not more than 70 days after the date of the town
31 clerk's certificate; provided, however, that if a town election is scheduled to occur within 100
32 days after the date of certificate, the board shall postpone the holding of the recall election to the
33 date of the other election and the question of recall shall appear on the ballot at the other
34 election. The person holding an elected office may file with the town clerk, within 14 days of the
35 receipt of the notice, an argument that shall contain no more than 500 words explaining the
36 elected officer's reasons for wanting to retain the position. If such argument is received, the
37 town clerk shall make the argument, including related affidavits or petitions, open for public
38 inspection at of the town clerk's office within 10 days of receipt and not less than 10 days before
39 the date of the recall election. The board of selectmen shall post the full text of any argument
40 received, including related affidavits or petitions, in at least 1 location in the town and shall make
41 the same available to the public upon a written request to the town clerk. If a vacancy occurs in
42 the elected office after the recall election has been ordered, the election shall nevertheless
43 proceed as provided in this section.

44 SECTION 4. A person holding an elected office sought to be removed may be a
45 candidate to succeed himself and, unless the person requests otherwise in writing, the town clerk
46 shall place the person's name on the ballot without nomination. The nomination of other
47 candidates, the publication of the warrant for the recall election and the conduct of the same shall
48 all be in accordance with the provisions of law relating to elections, unless otherwise provided in
49 this act.

50 SECTION 5. The incumbent holding an elected office shall continue to perform the
51 duties of the office until the recall election. If not recalled, the incumbent holding an elected
52 office shall remain in office for the remainder of the unexpired term, subject to recall as before,
53 except as provided in section 7. If recalled, the incumbent holding an elected office shall be
54 deemed removed. If the successor fails to qualify within 10 days after receiving notification of
55 the successor's election, the office shall be deemed vacant.

56 SECTION 6. Ballots used in a recall election shall submit the following propositions in
57 the order indicated:

58 For the recall of (name of officer)

59 Against the recall of (name of officer)

60 Immediately at the right of each proposition there shall be a square in which the voter, by
61 making a cross mark (x), may vote for either of the propositions. Under the propositions shall
62 appear the word "Candidates" and the directions to voters required by section 42 of chapter 54 of
63 the General Laws and, beneath this, the names of candidates nominated as hereinbefore
64 provided. If a majority of the votes cast upon the question of recall is in the affirmative, the
65 candidate receiving the highest number of votes shall be declared elected. If a majority of votes
66 cast upon the question of recall is in the negative, the ballots cast for candidates to fill the
67 potential vacancy shall not be counted.

68 SECTION 7. No recall petition shall be filed against a holder of an elected office within 6
69 months after the person takes office, nor in the case of a holder of an elected office subjected to a
70 recall election and not recalled thereby, until at least 6 months after the election at which the
71 recall was submitted to the voters of the town has elapsed.

72 SECTION 8. No person who has been recalled from an office or who has resigned from
73 an office while proceedings were pending against him shall be appointed to a town office within
74 1 year after the recall or resignation.