

HOUSE No. 4199

The Commonwealth of Massachusetts

PRESENTED BY:

Norman J. Orrall

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 to amend the charter of the town of Middleborough.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Norman J. Orrall</i>	<i>12th Bristol</i>	<i>9/30/2021</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>10/12/2021</i>

HOUSE No. 4199

By Mr. Orrall of Lakeville, a petition (accompanied by bill, House, No. 4199) of Norman J. Orrall (by vote of the town) for legislation to amend the charter of the town of Middleborough. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to amend 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:

1 SECTION 1. The second sentence of the first paragraph of section 3 of chapter 592 of the
2 acts of 1920 is hereby amended by striking out the word “them” and inserting in place thereof
3 the following words:- the selectmen.

4 SECTION 2. Said section 3 of said chapter 592 is hereby further amended by inserting
5 after the first paragraph the following paragraph:-

6 The selectmen shall also act as sewer commissioners and as the rent board with all
7 powers, rights, duties and liabilities conferred or imposed by law upon sewer commissioners and
8 rent boards.

9 SECTION 3. The first sentence of section 3A of said chapter 592, as appearing in section
10 2 of chapter 3 of the acts of 1982, is hereby amended by inserting after the word “board” the
11 following words:-, currently known as Middleborough gas and electric board of commissioners.

12 SECTION 4. The third sentence of said section 3A of said chapter 592, as so appearing,
13 is hereby amended by inserting after the word “board” the following words:-, currently known as
14 Middleborough gas and electric board of commissioners,.

15 SECTION 5. Section 4 of said chapter 592, as appearing in section 1 of chapter 443 of
16 the acts of 1935, is hereby amended by striking out the second paragraph and inserting in place
17 thereof the following paragraph:-

18 The members of the committee shall serve during the terms for which the members are
19 elected and until the members’ successors are qualified. The members of the committee shall be
20 sworn to the faithful performance of the members’ duties, shall serve without salary and shall not
21 hold any other town office or employment.

22 SECTION 6. Section 6 of said chapter 592, as appearing in section 2 of chapter 443 of
23 the acts of 1935, is hereby amended by striking out the third sentence and inserting in place
24 thereof the following sentence:-

25 Whenever any payroll, bill or other claim against the town is presented to the town
26 manager, town clerk, town treasurer and collector of taxes or trustees of the public library, the
27 manager, clerk, treasurer and collector or trustees shall, if the same seems to be of doubtful
28 validity, excessive in amount, or otherwise contrary to the interests of the town, refer it to the
29 committee who shall immediately investigate the facts and report the committee’s findings and
30 recommendations to the selectmen who shall determine what, if any, payment should be made.

31 SECTION 7. Section 7 of said chapter 592 is hereby amended by striking out the word
32 “they” and inserting in place thereof the following words:- the selectmen.

33 SECTION 8. Section 10 of said chapter 592 is hereby amended by striking out the fourth
34 sentence and inserting in place thereof the following sentence:- The town clerk shall hold office
35 during the pleasure of the selectmen and shall be sworn to the faithful performance of the town
36 clerk's duties by the chairman of the selectmen or by a justice of the peace.

37 SECTION 9. Section 11 of said chapter 592, as appearing in section 4 of chapter 443 of
38 the acts of 1935, is hereby amended by striking out the fourth sentence and inserting in place
39 thereof the following sentence:- Before entering upon the duties of the office of town assessor,
40 the assessor shall be sworn to the faithful performance thereof as provided by general law.

41 SECTION 10. Said chapter 592 is hereby further amended by striking out sections 13 to
42 16, inclusive, and inserting in place thereof the following 4 sections:-

43 Section 13. The selectmen shall have and exercise all the powers and rights and be
44 subject to all the duties and liabilities now or hereafter conferred or imposed by law upon boards
45 of public welfare in towns, and the town manager, under the supervision of the selectmen, shall
46 administer the welfare relief of the town either directly or through a person or persons appointed
47 by the town manager.

48 Section 14. (a) The board of selectmen shall appoint a chief of police and such other
49 police officers as the board of selectmen may deem necessary and shall fix the compensation of
50 the chief of police and police officers.

51 (b) Full time police officers whose appointments are subject to chapter 31 of the General
52 Laws may be removed in accordance with said chapter 31, except that the tenure of office of the
53 chief shall, after the chief has served five continuous years, continue during good behavior, as
54 long as the chief is able to perform the duties of the office; and the chief shall not be removed

55 except after a hearing by the selectmen on written charges, a copy of which shall be furnished to
56 the chief prior to the hearing.

57 (c) The chief of police shall be in immediate control of all town property used by the
58 department, and of the police officers who shall obey the chief's orders.

59 (d) The chief of police shall have all the powers and duties required of the position
60 pursuant to section 97 of chapter 41 of the General Laws. The other police officers shall have all
61 of the powers and duties required of the position of police officer by law. Police officers shall
62 have all the powers and duties of constable except those of service and executing civil process.

63 (e) The selectmen may make suitable regulations governing the organization of the police
64 department and the officers thereof.

65 Section 15. The selectmen shall appoint two or more constables annually in February,
66 each for the term of one year from the following first day of March, and may at any time appoint
67 such additional constables as in the opinion of the selectmen may be necessary, who shall hold
68 office during the pleasure of the selectmen but not beyond the first day of March following the
69 date of the constables' appointment.

70 Section 16. The chief of the fire department shall be appointed by the selectmen, and
71 shall receive such salary as the selectmen may from time to time determine, not exceeding the
72 amount annually appropriated therefor. The chief may be removed for cause by the selectmen at
73 any time after a hearing. The chief shall have charge of extinguishing fires in the town and the
74 protection of life and property in case of fire. The chief shall purchase subject to the approval of
75 the selectmen and keep in repair all property and apparatus used for and by the fire department.
76 The chief shall have and exercise all the powers and rights and be subject to all the duties and

77 liabilities conferred or imposed by law upon engineers in towns, except as herein provided, and
78 shall appoint a deputy chief and such officers and firemen as the chief may think necessary, and
79 may remove the same at any time for cause and after a hearing. The chief shall have full and
80 absolute authority in the administration of the department, shall make all rules and regulations
81 for its operation, shall report to the selectmen from time to time as the selectmen may require,
82 and shall annually report to the town the condition of the department with the chief's
83 recommendations thereon. The chief shall fix the compensation of the permanent and call
84 members of the fire department, subject to the approval of the selectmen. In the expenditure of
85 money the chief shall be subject to such further limitations as the town may from time to time
86 prescribe.

87 SECTION 11. The first sentence of the second paragraph of subsection (b) of section 17
88 of said chapter 592, as appearing in section 2 of chapter 425 of the acts of 2010, is hereby
89 amended by striking out the word "him" and inserting in place thereof the following words:-
90 town counsel.

91 SECTION 12. Subsection (c) of said section 17 of said chapter 592 is hereby amended by
92 striking out the word "in" and inserting in place thereof the following word:- on.

93 SECTION 13. Said chapter 592 is hereby further amended by striking out section 18, as
94 amended by section 8 of chapter 443 of the acts of 1935, and inserting in place thereof the
95 following section:-

96 Section 18. The selectmen elected as provided in section two shall appoint, as soon as
97 practicable, a town manager who shall be the administrative head of all departments of the town
98 government, the conduct of which is by the general laws and by this act placed upon the

99 selectmen of the town, except as provided otherwise in this act. The town manager shall be
100 subject to the direction and supervision, and shall hold office at the will of the selectmen, and
101 shall be a person specially fitted by education, training or experience to perform the duties of the
102 office. The town manager shall be appointed without regard to political beliefs, and may or may
103 not when appointed be a resident of the town or state. The town manager shall be responsible for
104 the efficient administration of all departments within the scope of the town manager's duties.
105 Before entering upon the duties of the office of town manager, the town manager shall be sworn
106 to the faithful and impartial performance thereof by the chairman of the selectmen, or by the
107 town clerk, or by a justice of the peace. The town manager shall execute a bond in favor of the
108 town for the faithful performance of the town manager's duties in such sum and with such surety
109 or sureties as may be fixed or approved by the selectmen.

110 SECTION 14. Section 19 of said chapter 592 is hereby amended by striking out
111 subsections (c) to (f), inclusive, and inserting in place thereof the following 4 subsections:-

112 (c) To exercise control of all departments or divisions made subject to the town
113 manager's supervision.

114 (d) To attend all regular meetings of the selectmen, and to recommend to the selectmen
115 for adoption such measures requiring action by the selectmen or by the town as the town
116 manager may deem necessary or expedient.

117 (e) To keep full and complete records of the office of town manager, and to render as
118 often as may be required by the selectmen a full report of all operations during the period
119 reported on; and annually, or oftener if required by the selectmen, to make a synopsis of all the
120 reports for publication.

121 (f) To keep the selectmen fully advised as to the needs of the town within the scope of the
122 town manager's duties, and to furnish the selectmen in writing on or before the thirty-first day of
123 December of each year with a detailed list of the appropriations required during the next ensuing
124 fiscal year for the proper conduct of all departments of the town under the town manager's
125 control.

126 SECTION 15. Said section 19 of said chapter 592 is hereby further amended by striking
127 out subsections (i) and (j) and inserting in place thereof the following 2 subsections:-

128 (i) To administer the health regulations of the town as required by the by-laws, or by the
129 selectmen, in addition to those provided by statute, either directly, or through a person appointed
130 by the town manager, to be designated as the health officer, and under the supervision of the
131 selectmen exercising the powers of a board of health.

132 (j) To perform such other duties, consistent with the office of town manager, as may be
133 required of the town manager by the by-laws of the town or by vote of the selectmen.

134 SECTION 16. The first sentence of subsection (m) of said section 19 of said chapter 592
135 is hereby amended by inserting after the word "board" the following words:- , currently known
136 as Middleborough gas and electric board of commissioners.

137 SECTION 17. Section 20 of said chapter 592 is hereby amended by striking out the word
138 "his", each time it appears, and inserting in place the following words:- the town manager's.

139 SECTION 18. The first sentence of section 21 of said chapter 592 is hereby amended by
140 striking out the word "his" and inserting in place thereof the following words:- the town
141 manager's.

142 SECTION 19. The third sentence of said section 21 of said chapter 592 is hereby
143 amended by striking out the word “him” and inserting in place thereof the following words:- the
144 town manager.

145 SECTION 20. The second sentence of section 24 of said chapter 592 is hereby amended
146 by striking out the word “he” and inserting in place thereof the following words:- the town clerk.

147 SECTION 21. The third sentence of said section 24 of said chapter 592 is hereby
148 amended by striking out the word “his” and inserting in place thereof the following words:- the
149 town clerk’s.

150 SECTION 22. The first sentence of section 25 of said chapter 592 is hereby amended by
151 striking out the word “he” and inserting in place thereof the following words:- the town clerk.

152 SECTION 23. Section 26 of said chapter 592 is hereby amended by striking out the first
153 sentence and inserting in place thereof the following sentence:- . Any officer sought to be
154 removed may be a candidate to succeed himself, and, unless the officer requests otherwise in
155 writing, the town clerk shall place the officer’s name on the official ballot without nomination.

156 SECTION 24. Said chapter 592 is hereby further amended by striking out section 27 and
157 inserting in place thereof the following section:-

158 Section 27. The incumbent shall continue to perform the duties of the incumbent’s office
159 until the recall election. If then re-elected, the incumbent shall continue in office for the
160 remainder of the unexpired term, subject to recall as before, except as provided in section
161 twenty-nine of this act. If not re-elected in the recall election, the incumbent shall be deemed
162 removed upon the qualification of the incumbent’s successor, who shall hold office during the

163 unexpired term. If the successor fails to qualify within five days after receiving notification of
164 the successor's election, the incumbent shall thereupon be deemed removed and the office
165 vacant.

166 SECTION 25. Section 29 of said chapter 592 is hereby amended by striking out the word
167 "he" and inserting in place thereof the following words:- the officer.

168 SECTION 26. Section 30 of said chapter 592 is hereby amended by striking out the word
169 "him" and inserting in place thereof the following words:- the person.

170 SECTION 27. Section 31 of said chapter 592 is hereby amended by striking out the word
171 "them" and inserting in place thereof the following words:- the selectmen.

172 SECTION 28. The first sentence of section 32 of said chapter 592 is hereby amended by
173 striking out the word "his" and inserting in place thereof the following words:- the member,
174 officer or employee's.

175 SECTION 29. This act shall take effect upon its passage.